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ENERGY AND ENVIRONMENT UPDATE June 17, 2013

ENERGY AND CLIMATE DEBATE

All eyes turned to the House Energy and Commerce Committee last week as Secretary of Energy Ernest Moniz testified before Congress for the first time since being sworn-in. Secretary Moniz outlined the energy policy, science, nuclear security, and management goals of the Department and then listed several areas in which he hopes to improve work. He is currently considering options to consolidate science and energy program management, to create a stronger independent oversight function that will report directly to him, to strengthen lines of authority and management, and to forum councils of advisors on issues ranging from cybersecurity to National Labs management. Secretary Moniz said he will consider liquefied natural gas export terminals expeditiously and in the current order outlined by the Department; he anticipates a decision will be made by the end of the year.

This morning, the House Appropriations Committee released the Chairman's [mark](#) of the fiscal year 2014 energy and water appropriations bill. The measure, which totals \$30.4 billion, is \$2.9 billion below 2013 enacted levels and \$4.1 billion below requested levels. Department of Energy renewable energy programs, scientific research programs, and ARPA-E all saw cuts. According to the Committee, the [legislation](#) addresses Army Corps of Engineers, Bureau of Reclamation, energy programs, environmental cleanup, nuclear security, scientific research, and Yucca Mountain issues.

The Senate approved H.R. 954, the Farm Bill, 66-27 on June 10. While that chamber is expected to focus on immigration reform this week, the House will focus on the Farm Bill on Wednesday and Thursday. It is expected that 150 Republicans and 75 Democrats are needed to pass the bill. Members are likely to have liberal access to the floor for amendments, and there are expected to be many amendments from both sides regarding food stamp funding levels. While the House bill is in better shape than last year, the whole thing could collapse if certain Republicans succeed in stripping a dairy provision introduced by Representative Collin Peterson (D-MN). If that is taken out, Representative Peterson could get agriculture state Democrats to vote against the bill.

There has been increased chatter in DC about a potential White house climate change proposal announcement as early as next month. It is unclear if the proposal will be entirely new or will partly or entirely consist of existing proposals. The regulatory authority of the Environmental Protection Agency might be used heavily to implement the proposal. The timing of the release might further complicate the nomination of Gina McCarthy, which has been held up in the Senate.

The Senate is currently considering a plethora of nominations. Gina McCarthy and Labor Secretary Nominee Tom Perez are unlikely to be considered until July at the earliest. The re-nomination of Nuclear Regulatory Commission Chairman Allison Macfarlane has slowed as Senate Environment and Public Works Chairman Barbara Boxer (D-CA) continues to ask for agency documents on the San Onofre facility. On the other hand, the Senate will likely confirm Penny Pritzker to serve as Secretary of Commerce, Anthony Foxx to serve as Transportation Secretary, and Fred Hochberg to remain the head of the Export-Import Bank before the July 4th recess.

It is anticipated that Senators Ron Wyden (D-OR), Lisa Murkowski (R-AK), Dianne Feinstein (D-CA), and Lamar Alexander (R-TN) will publicly release their nuclear waste management legislation before the July 4th recess; the bill had previously been made public but questions arose over implementation. The Senate Environment and Public Works Committee will consider S. 332, the Climate Protection Act, and the House Energy and Commerce Committee is expected to hold a hearing on energy efficiency in the July work period.

CONGRESS

Shelanski Nomination Hearing

The Senate Homeland Security and Government Affairs Committee considered on June 12 the nomination of Howard Shelanski to serve as Office of Information and Regulatory Affairs Administrator. During the hearing, members expressed concerns about the backlog of 139 regulations, many energy and environment related, in the office.

Background Ozone Must Be Considered

The House Science, Space, and Technology Subcommittee on Environment held a hearing June 12 where witnesses said stronger ozone standards that do not address background ozone could be impossible to meet for western states. Background ozone can account for up to 40 parts per billion of the 60 ppb of ozone measured in these states. New ozone standards could be proposed in December and finalized by September 2014.

Moniz on FY14 DOE Budget

The House Energy and Commerce Subcommittee on Energy and Power held a hearing June 13 to examine the fiscal year 2014 Department of Energy Budget. Secretary of Energy Ernest Moniz, the only witness, said nominations for key leadership positions such as Undersecretaries of Energy will roll out by early September at the latest. He also said he plans on releasing decisions about LNG export terminals by the end of the year.

Sandy, Climate Change Letter Sent

Senators Bob Menendez (D-NJ), Richard Blumenthal (D-CT), Chris Murphy (D-CT), Chuck Schumer (D-NY), and Kirsten Gillibrand (D-NY) sent a [letter](#) June 13 to President Obama advocating for carbon pollution standards for new and existing power plants. The senators, citing damage from Hurricane Sandy, said more work needed to be done to cut carbon emissions.

House Passes NDAA

The House of Representatives voted 314-108 to approve H.R. 1960, the National Defense Authorization Act, on June 14. In the bill, the Defense Department is only allowed to procure biofuels if the fuels are cost competitive with conventional fuels, is prohibited from building new biofuels plants unless specifically authorized by Congress, and is restricted in using LEED standards.

Bills Introduced

- On June 11, Senators Jay Rockefeller (D-WV), Roy Blunt (R-MO), Maria Cantwell (D-WA), Ben Cardin (D-MD), and Susan Collins (R-ME) introduced [S. 1133](#), a bill to make the New Markets Tax Credit permanent. The credit, created in 2007 and set to expire at the end of the year, has been utilized for a number of clean energy projects.
- The same day, Senator Bob Casey (D-PA) and four Democratic cosponsors introduced [S. 1135](#), a bill that would remove an exemption for hydraulic fracturing in the Safe Drinking Water Act.
- On June 13, Representatives Ed Whitfield (R-KY), David McKinley (R-WV), Bill Enyart (D-IL), and Nick Rahall (D-WV) introduced [H.R. 2351](#), a bill that repeals a provision of the Energy Conservation and Production Act of 2007 that requires the federal government to reduce the use of fossil fuels in new or modified buildings by 2030.
- The same day, Representative Jerry McNerney (D-CA) introduced [H.R. 2368](#), the Grants for Renewable Energy Education for the Nation (GREEN) Act. The bill would establish a competitive grant opportunity for clean energy training programs that target secondary education students to help them better transition to post-secondary environments; local education agencies, post-secondary institutions, and technical skills would be eligible to apply for these grants.

Upcoming Hearings

- On June 18, the Senate Energy and Natural Resources Committee will meet to consider several pieces of legislation, including S. 783, the Helium Stewardship Act of 2013.
- The same day, the House Appropriations Subcommittee on Energy and Water Development and Related Agencies will markup the FY14 Energy and Water Appropriations Bill.
- The same day, the House Energy and Commerce Subcommittee on Energy and Power will hold a hearing to examine the regulatory, market, and legal barriers to exporting energy.
- The same day, the House Science, Space, and Technology Committee will hold a hearing to examine the science and technology priorities of the Department of Energy; Secretary of Energy Ernest Moniz will be the only witness.
- On June 19, Senate Energy and Natural Resources Chairman Ron Wyden (D-OR) will address the White House Council on Environmental Quality on energy efficiency, energy savings performance contracts, and infrastructure improvements.
- On June 20, the House Energy and Commerce Subcommittees on Commerce, Manufacturing and Trade and Energy and Power will hold a joint hearing on manufacturing and energy.
- The same day, the House Natural Resources Subcommittee on Energy and Mineral Resources will host a hearing on the benefits and challenges of coal mining.
- On June 24, the Senate Energy and Natural Resources Committee will hold a hearing on additional Shaheen-Portman amendments.

ADMINISTRATION

China, U.S. Agree to Phase Out HFCs

President Barack Obama and Chinese President Xi Jinping announced on June 8 that the two countries would work together to reduce the production and emissions of hydrofluorocarbons. The agreement allows both countries to work under the Montreal Protocol to reduce HFC use. Environmentalists hope that this will be the first step to a broad international agreement on HFC reductions, possibly through UN action or an amendment to the Montreal Protocol.

FAA Looking for Unleaded Airline Fuel

The Federal Aviation Administration issued a request for fuel proposals on June 10, asking fuel producers to design a new, unleaded aviation fuel that would work with the existing aircraft engines. Leaded gasoline used in aviation is the largest source of lead emissions in the U.S., and the agency estimates that over 160,000 planes, though no large commercial jets, still fly on leaded fuel.

WH Climate Action Coming

Deputy Assistant to the President for Energy and Climate Change Heather Zichal announced June 11 that the White House would soon release more information on President Obama's second-term climate agenda. The President's approach will focus on executive action rather than legislation and will include efforts to strengthen Clean Air Act rules, improve energy efficiency, invest in clean energy research and production, and phase out fossil fuel subsidies.

DEPARTMENT OF AGRICULTURE

9005 Biofuels Program Enrollment Period Announcement

The Department of Agriculture released a [notice of contract proposals](#) for the 9005 Advanced Biofuels Program on June 11, which provides payments to advanced biofuels producers. As anticipated in last week's update, the notice announced a new enrollment period for the program. Applications are accepted for the coming fiscal year in the month of October each year, so the new enrollment window will allow advanced biofuels producers to participate for the remaining two quarters of FY13.

BioPreferred Program Expanded

The Department of Agriculture released a [final rule](#) June 11 expanding the categories of the BioPreferred Program, a program that lists preferred products for procurements over \$10,000. New categories added include aircraft and boat cleaners, automotive care products, engine crankcase oil, gasoline fuel additives, metal cleaners and corrosion removers, microbial cleaning products, paint removers, and water turbine bearing oils.

DEPARTMENT OF ENERGY

Waste-to-Energy RFI Released

The Department of Energy Office of Energy Efficiency and Renewable Energy released a [request for information](#) on waste-to-energy issues. The agency is exploring the possibility of a funding opportunity to support (non-incineration) waste-to-energy. The program could include bioenergy technologies such as pyrolysis, biomass gasification, and anaerobic digestion.

EIA Shale Formation Report Released

The Energy Information Administration released June 10 its report [Technically Recoverable Shale Oil and Shale Gas Resources: An Assessment of 137 Shale Formations in 41 Countries Outside the United States](#). The report, which expanded upon a 2011 study, found that approximately 345 billion barrels of oil and 7,299 trillion cubic feet of natural gas are technically recoverable from shale

formations worldwide. The natural gas estimate is up by 10 percent from the 2011 study. Russia, the U.S., China, Argentina, and Libya lead the recoverable shale oil shares while China, Argentina, Algeria, the U.S., and Canada have the most shale gas reserves.

DOE to Fund Hydrogen, Fuel Cell R&D

The Department of Energy announced June 11 that it would make up to \$9 million available to fund up to eight R&D projects for hydrogen and fuel cell technologies. Eligible topic areas include advanced hydrogen refueling components, fuel cells for hybrid electric medium-duty trucks, hydrogen meters, and rooftop installations of hydrogen fuel cell backup power systems.

Levy Named Acting CoS

Department of Energy Former Chief of Staff Brandon Hurlbut and Acting Chief of Staff Jeff Navin left the agency on June 12. Hurlbut served under Secretary Chu and oversaw the transition to Secretary Moniz while Navin had served under Secretary Moniz. Deputy Chief of Staff Jonathan Levy will take over as Acting Chief of Staff.

DEPARTMENT OF HOMELAND SECURITY

DHS to Study Climate Change Risks

The Department of Homeland Security released a notice June 6, saying that climate change will be one of the risk factors considered in the agency's next National Infrastructure Protection Plan. The report, last updated in 2009, measures risks to critical infrastructure, makes recommendations to strengthen infrastructure systems, and proposes new ways to streamline communications within the government.

DEPARTMENT OF STATE

Sierra Club sues State over Keystone XL

The Sierra Club filed a lawsuit against the State Department on June 10 in the U.S. District Court for the Northern District of California. The environmental group challenged that the department withheld documents for the Keystone XL environmental impact statement and that the department hired a consulting firm with a conflict of interest to conduct the impact statement.

Nakagawa Joins State

Melanie Nakagawa left her position as Senate Foreign Relations Committee Senior Energy/Environment Council on June 13 to serve as part of the Policy Planning Staff at the Department of State. She will focus on climate change, energy, and the environment at the department.

FEDERAL ENERGY REGULATORY COMMISSION

Norris Pushes Energy Efficiency

Federal Energy Regulatory Commission Commissioner John Norris said June 12 that the best ways to reach the Obama administrations greenhouse gas emissions reductions target are to invest in energy efficiency technologies, enact policies that value carbon in order to make the value of these technologies clearer, and replace aging grid infrastructure with new energy efficient technologies.

ENVIRONMENTAL PROTECTION AGENCY

Court to Not Rehear Water Pollution Case

The U.S. Court of Appeals for the District of Columbia Circuit declined to rehear a case involving a settlement between the Environmental Protection Agency and environmental groups over the agency's power plant water pollution limits. The court originally said in April that environmental groups did not have standing to set a schedule for the rules.

INTERNATIONAL

Ontario Bill Gives Producers Recycling Responsibility

The government of Ontario proposed legislation on June 6 that would give responsibility for recycling goods to the manufacturers and retailers who sell them. The bill, titled the "Waste Reduction Act," seeks to help divert waste from landfills and protect consumers against hidden recycling fees usually not included in the purchase price of products.

IEA Report Advocates Climate Change Action

The International Energy Agency released its report [*Redrawing the Energy-Climate Map: World Energy Outlook Special Report*](#) on June 10, finding that urgent action before 2020 is needed to mitigate the effects of climate change. The report praised the shift from coal to natural gas in the United States, but said rising gas prices could harm the shale boom. The agency advocates for emissions reductions, energy efficiency measures, management of methane leaks in the oil and gas industries, and phase-outs of fossil fuel subsidies.

Canada to Increase Nuclear Liability Limit

The Canadian Natural Resources Minister announced June 10 that Canada would introduce legislation to increase its nuclear industry civil liability limit from \$73.7 million to \$982 million. In addition, Canada will join the International Atomic Energy Agency's Convention on Supplementary Compensation for Nuclear Damage, which will further increase the limit to \$1.42 billion.

Private Sector Involvement Advocated

The International Economic Forum of the Americas was held June 11 in Montreal, and participants advocated for more private sector involvement on environmental issues. Global Environmental Facility CEO Naoko Ishii cited the fact that the private sector accounts for 80 percent of economic activity when urging for more industry involvement in environmental decision making.

UN Report on Global Renewable Energy Investment

The U.N. Environment Program released its report [*Global Trends in Renewable Energy Investment 2013*](#) on June 11, finding that renewable energy investment at the global level was \$244 billion in 2012. The investment had dropped 12 percent from 2011 levels; the report cited instability in renewable energy policies as the reason the decrease occurred.

UK Needs 32 More Wind Factories

Renewable UK released a [report](#) June 12 saying that Great Britain will need up to 32 additional factories to construct the components necessary to build the over 2,000 needed with turbines to meet the government's 2030 energy goals. The report also finds that the UK will need 20 large sea vessels to construct the turbines and another 230 ships to carry workers that will operate and maintain the turbines.

UNECE Meeting Held

The U.N. Economic Commission for Europe held a conference on European statistics June 12. The conference resulted in a framework for sustainable development measurements, endorsed by 14

countries and international organizations, including the EU, Russia, and the U.S. The framework consists of 20 themes on economic, environmental, and social issues as ways to better manage the impacts of climate change and resource depletion.

EU Emissions Trading Compromise Reached

Representatives from the three major parties in the European Parliament reached a tentative compromise on June 12 on a European Commission proposal to reduce the oversupply in the EU emissions trading program. The compromise includes an earlier required return of delayed allowances. However, the Greens group representatives have expressed opposition to the compromise, saying it weakens the system.

Nuclear Plant Legislation Introduced

Legislation to require peer reviewed nuclear power plant inspections every six years was introduced June 13 by the European Commission. The bill was written in response to the 2011 Fukushima Daiichi disaster.

Bonn Conference Ends with Little Progress

The Bonn Climate Change Conference closed on June 14 with some agreements on administrative issues and virtually no progress on new environmental protections. Developing countries blocked a proposal to regulate hydrofluorocarbons under the Montreal Protocol, while developed countries led by the U.S. and Japan tabled a proposal to commission a report studying the costs of adaption in the developing world. International climate talks will resume in November at the Conference of the Parties talks in Warsaw.

STATES

CA Smart Meter Lawsuits Filed

Southern California Edison and Pacific Gas and Electric Co. customers filed lawsuits May 31 against the utilities, alleging that the companies failed to adequately analyze the potential health risks of wireless electricity meters, also known as "smart meters," which they claimed cause "brain fog," chronic fatigue, cancer, headaches, heart attacks, ringing in the ears, and interference with pacemakers. The California Public Utilities Commission ordered the utilities to install smart meters in order to build an intelligent, integrated electricity distribution network.

MISO Proposal Upheld

The U.S. Court of Appeals for the Seventh Circuit ruled June 7 that a 2011 proposal by the Midwest Independent System Operator to allocate costs to 12 states for high-voltage transmission lines could be upheld. Illinois and Michigan had challenged the plan, saying the Federal Energy Regulatory Commission exceeded its authority in the approval of the proposal.

NC Ethanol Blending Statute Ruling

The U.S. Court of Appeals for the Fourth Circuit ruled June 10 that a lower court must determine whether a North Carolina Ethanol Blending statute has a significant negative impact on gasoline suppliers. The lower court ruled that federal law did not preempt the state law, but the appeals court determined that the state did not fully consider the Latham Act.

NE Court Rejects Keystone XL Dismissal Request

The Nebraska District Court, Lancaster County rejected June 11 the state's motion to dismiss a lawsuit filed by landowners and environmental groups concerning the constitutionality of LB 1161, which that gave the governor the authority to approve or deny the siting of the proposed Keystone

XL pipeline. The plaintiffs argued the bill was introduced at the request of TransCanada and that it unlawfully allowed the governor to avoid judicial review, due process requirements for the exercise of eminent domain, and removed authority from state regulators. They also asserted that if LB 1161 is ruled unconstitutional, then the actions taken by the governor regarding the siting of the pipeline would be considered null and void, and TransCanada would be forced to seek approval for a new route from the state regulators.

Fracking Legislation Voted Down

The California Assembly Natural Resources Committee defeated A.B. 7, a bill to require public disclosure of fracking chemicals and to require justification of trade secret claims, on June 12. The bill had originally been sent to the floor, but amendments sent it back to the committee. The full Assembly recently voted down three separate bills to place some sort of moratorium on fracking.

Los Angeles Port Case Decided

The Supreme Court ruled unanimously on June 13 that the Port of Los Angeles' trucking regulations are preempted by the Federal Aviation Administration Authorization Act. The regulations, that trucking companies must create off-street parking plans and must display vehicle placards, were part of the Port's Clean Trucks Program.

SUSTAINABILITY

Cloud Apps Reduce Energy Consumption Says Report

The Lawrence Berkley National Laboratory and Northwestern University released a [report](#) on June 11 showing that businesses could cut their energy consumption by up to 87% by moving commonly used applications like email and word processors from local servers to the cloud. The model used to estimate the energy savings was also released [online](#).

MISCELLANEOUS

Gore Praises SMRs

Former Vice President Al Gore praised small modular reactors June 11, saying the technology could revolutionize the nuclear sector in one to two decades. He urged investment and research today to ensure successful deployment in the future. Gore continued that nuclear power, specifically this technology, could be an effective tool in reducing the impact of climate change.

Report on Army Installations Released

The RAND Arroyo Center released its report [Key Trends that Will Shape Army Installations Tomorrow](#) on June 11, advocating that the military invest in sustainable and energy efficient buildings today. The report also urged the Army to better collaborate with utilities and local communities on resource management.

Latino Groups Send Climate Letter to Obama

Eighteen Latino organizations sent a [letter](#) to President Obama on June 12 urging him to take action on climate change by updating emissions standards for power plants. The groups, which include the League of United Latin American Citizens, Voces Verdes, and Voto Latino, asked President Obama to promulgate final rules for limiting CO2 emissions for new power plants and start the process for creating stricter CO2 standards for existing power plants.