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ENERGY & ENVIRONMENT UPDATE September 9, 2013

ENERGY AND CLIMATE DEBATE

The House and Senate chambers, quiet for over a month, resumed regular business today. ML Strategies has produced a post-Labor Day outlook. Congress has several issues to address now that it is back in session, including the appropriations process, the debt ceiling, the extenders package, and the grand bargain. Energy and environment issues, such as the Keystone XL pipeline and the Renewable Fuel Standard, may crop up as riders to these topics. The nine major energy issues of note are Shaheen-Portman, the National Helium Reserve, the consideration of the proposed liquefied natural gas export terminals, the Keystone XL pipeline, the future of the Renewable Fuel Standard, the Interior Department's fracking rule, President Obama's climate action strategy, Environmental Protection Agency regulations, and the President's Power Africa initiative. For a broader overview of the congressional to-do list, please see our [ML Strategies Post-Labor Day Preview](#).

The big energy-related push surrounds Shaheen-Portman. The Senate was set to consider [S. 1392](#) tomorrow, but the debate surrounding Syria pushed the timeline back. Should the Senate approve the energy-efficiency legislation, the House will now consider its version, [H.R. 1616](#), which was introduced by Representatives David McKinley (R-WV) and Peter Welch (D-VT). Four additional energy and environment bills have been gaining buzz on the Hill. On the House side, Majority Leader Eric Cantor (R-VA) announced that the chamber will address [H.R. 2728](#), Protecting States' Rights to Promote American Energy Security Act, in the next two months. The bill, introduced by Representative Bill Flores (R-TX) and passed by the House Natural Resources Committee in July, would prevent the Department of the Interior from enforcing fracking regulations in states that already have requirements. In addition, [H.R. 1963](#), the Bureau of Reclamation Conduit Hydropower Development Equity and Jobs Act, is expected to move. This bill, introduced by Representative Steve Daines (R-MT), would allow irrigation districts and water user associations to install hydropower projects at Bureau of Reclamation facilities and collect revenue from the projects. On the Senate side, the Energy and Natural Resources Committee is currently considering [S. 1240](#) and [S. 1419](#). S. 1240, the Nuclear Waste Administration Act, focuses on nuclear waste while S. 1419, the

Marine and Hydrokinetic Renewable Energy Act of 2013, streamlines marine and hydrokinetic pilot project permits.

The Senate Energy and Natural Resources Committee is expected to consider the nomination of Ron Binz to serve as Federal Energy Regulatory Commission Chairman on September 17.

CONGRESS

Menendez on Keystone Hearings

Senate Foreign Relations Chairman Robert Menendez said in an August 29 [interview](#) that the committee will hold hearings on the Keystone XL pipeline. The hearings, which have not been scheduled, will most likely feature officials conducting the impact statements. He commented that he hopes the hearings will dissuade supporters of the project.

Hoeven Not Likely to Link Keystone, Syria

Don Canton, spokesman for Senator John Hoeven (R-ND), commented September 3 that the Senator will most likely not introduce a rider involving the Keystone XL pipeline to a bill about Syria. However, the issue with Syria highlights the need for energy independence.

CRS Report on Energy Tax Policy

The Congressional Research Service, in its September 4 report *Energy Tax Policy: Issues in the 113th Congress*, outlined the current status of U.S. energy tax policy as well as potential avenues Congress can explore this session including expiring provisions, tax reform, and selected pieces of legislation. Of particular interest, page 21 of the report outlines expiring energy tax provisions. The CRS report is attached.

Vitter Letter to Wellinghoff

Senate Environment and Public Works Ranking Member David Vitter (R-LA), in a September 5 [letter](#) to Federal Energy Regulatory Commission Chairman Jon Wellinghoff, said he believes the commission and the Environmental Protection Agency have colluded on new power grid environmental regulations. He asked Chairman Wellinghoff if any officials have pressured him to downplay impacts from new and pending power plant emissions rules on electric reliability.

Wyden to ND

Senate Energy and Natural Resources Chairman Ron Wyden (D-OR) visited North Dakota on September 6 and 7, making several stops with fellow committee member Senator John Hoeven (R-ND). The two visited an ethanol biorefinery, a coal-fired power plant with combined heat and power technology, an oil rig, and a gas plant.

Upcoming Hearings

- On September 10, the House Energy and Commerce Subcommittee on the Environment and the Economy will hold a hearing to examine the court decision requiring the Nuclear Regulatory Commission to resume its review of Yucca Mountain as a possible nuclear waste repository. Chairman Allison Macfarlane will testify.
- The same day, the House Oversight and Government Reform Committee will hold a hearing on federal transparency. Former Environmental Protection Agency Administrator Lisa Jackson will testify.
- The same day, the House Science, Space, and Technology Subcommittee on Research and Technology will hold a hearing to examine advanced manufacturing federal programs.

ADMINISTRATION

Eagle Permit Rule Discussion

Representatives from the Audubon Society, the Defenders of Wildlife, the National Wildlife Federation, and the Natural Resources Defense Council met with White House officials on August 28 to discuss a proposed regulation to extend permit lengths for projects expected to kill a limited number of protected eagles. Conservation groups have said the rule could result in additional bird deaths while wind energy groups praised the rule, saying it would provide more certainty during project planning. The rule, developed by the U.S. Fish and Wildlife Service, is currently under review at the Office of Management and Budget.

Obama in Sweden

President Obama visited Sweden September 4, meeting with officials from that country as well as from Denmark, Finland, Iceland, and Norway. The group discussed upcoming international climate agreements, efforts to decrease reliance on coal-fired power plants, and hydrofluorocarbons and other short-lived climate pollutants.

Obama, Xi Reaffirm HFC Reduction Commitment

Following a June 8 agreement to reduce production and consumption of hydrofluorocarbons, President Obama and Chinese President Xi Jinping [reaffirmed](#) their commitment on September 6.

DEPARTMENT OF COMMERCE

SolarWorld Appeals Commerce Determinations

SolarWorld appealed determinations made by the U.S. Department of Commerce in 2012 in the U.S. Court of International Trade on September 5. In 2012, the department placed tariffs of 31 to 250 percent on Chinese photovoltaic imports; the company said several Chinese businesses failed to disclose ownership, thus receiving lower tariff rates.

NOAA Climate Meeting Scheduled

The National Oceanic and Atmospheric Administration Office of Oceanic and Atmospheric Research will hold a meeting of the National Climate Assessment and Development Advisory Committee on September 9. The meeting will focus on the prospect of creating a national climate assessment.

DEPARTMENT OF ENERGY

EIA Analysis of Ohio Coal Plant Retirements

The Energy Information Administration released September 3 [analysis](#) of coal-fired power plant retirements in northern Ohio. The agency found that in 2012 1,400 megawatts worth of coal-fired generation capacity retired in the area, representing a drop of 21 percent in capacity. The agency explained that utilities will be using improved transmission to compensate for the reduction.

EERE Awards \$45 Million for Transportation Projects

The Office of Energy Efficiency and Renewable Energy announced September 4 that it will award \$45 million over 38 transportation research [projects](#). The projects are based around five major themes: advanced batteries, electronics, fuels and lubricants, HVAC system efficiency, and light-weight materials.

Study on China Solar PV Success

[*Assessing the Drivers of Regional Trends in Solar Photovoltaic Manufacturing*](#), a joint report by the National Renewable Energy Laboratory and MIT which was funded by the Energy Department, was released September 5. The study found that the success of the Chinese photovoltaic sector can be linked to production scale and not lower labor costs. The large production scale was achieved partially through preferred access to capital.

DEPARTMENT OF INTERIOR

Second Offshore Wind Lease Sale Held

The Department of the Interior held its second offshore wind lease sale September 4 for an area off the coast of Virginia. Dominion Virginia Power bid \$1.6 million, securing the 113,000 acres. The Department of the Justice and the Federal Trade Commission will now conduct an anti-trust review, and the company will have to submit a site assessment plan. If approved, operations can be conducted for 33 years. Following the auction, Senate Environment and Public Works Ranking Member David Vitter (R-LA) expressed opposition to it, saying the department should open up the area to oil and gas exploration.

ENVIRONMENTAL PROTECTION AGENCY

Proposed 2014 RFS Levels Sent to OMB

The Environmental Protection Agency sent proposed 2014 volume obligations under the Renewable Fuel Standard to the Office of Management and Budget for review on August 30. The review, which may last several weeks, is only about volume obligations, and pathway approvals are not included. While there is no indication of what the 2014 volumes are, the agency suggested in its 2013 rule that it could lower the 2014 levels to avoid hitting the ethanol blend wall. The deadline for the final standard is November 30.

EPA Electronic Reporting Requirements Proposed Rule

The Environmental Protection Agency released a [proposed rule](#) September 3 to require alternative emissions electronic reporting requirements for 24 industries as a method to protect business information. Potential categories include fuel types, production volumes, and raw materials used. The industries include glass production, hydrogen production, petroleum refineries, and pulp and paper manufacturing. Public comments will be accepted through early November.

DOJ Requests Rehearing of Midwest Generation Case

The Justice Department petitioned the U.S. Court of Appeals for the Seventh Circuit on September 3 to reconsider its decision to dismiss Environmental Protection Agency claims that Midwest Generation LLC operated an Illinois coal-fired power plant without complying with federal statutes. The court ruled on July 8 that the agency failed to file a complaint about plant modifications for over 10 years, outside the five year statute of limitation.

EPA SCOTUS Brief on CSAPR

In a September 4 brief to the Supreme Court, the Environmental Protection Agency said the U.S. Court of Appeals for the District of Columbia Circuit, in its August 2012 decision striking down the Cross-State Air Pollution Rule, did not have the proper authority to consider parts of the case. The agency said some challenges considered were not raised in the public comment period.

Backup Stationary Engine Air Pollution Standards Public Comment Period

The Environmental Protection Agency [announced](#) September 5 that it will accept public comments on its recent decision to reconsider backup stationary engine air pollution standards. Since provisions were added to the final rule, public comment was never collected. The agency will accept comments through November 4.

McCarthy-Utility Meeting

Environmental Protection Agency Administrator Gina McCarthy met with representatives from Edison Electric Institute and various utilities on September 5 to discuss upcoming proposed rules on new power plant emissions and on cooling towers. Participants urged the agency not to include carbon capture and sequestration technology in the requirements because it is not commercially viable.

Carnival Exemption Agreement Reached

An agreement between the Environmental Protection Agency, the U.S. Coast Guard, and Carnival was reached on September 5 to provide the cruise company a standard exemption for maritime air pollution standards. The company, which owns 32 ships, will be allowed to use any fuel as it implements \$180 million worth of emissions control technology over the next three years. The emissions rule was put into place in August 2012.

OIG Report on RFS Controls

In its September 5 report [The EPA Should Improve Monitoring of Controls in the Renewable Fuel Standard Program](#), the Environmental Protection Agency Office of the Inspector General recommended the agency require third-party reviews be submitted electronically. Following recent cases of renewable identification number fraud, the Inspector General said the Office of Transportation and Air Quality should track compliance reviews electronically.

INTERNATIONAL

ON to Provide Climate Change Research Funding

Ontario Premier Kathleen Wynne announced September 2 that the government will provide \$1.9 million to support climate change research at the Experimental Lakes Area, a research facility consisting of 58 freshwater lakes as well as drainage land. A memorandum of understanding between the Canadian government and the International Institute of Sustainable Development, the operator of the facility, was signed on August 29.

Beijing Air Plan Includes Coal Reductions

The Beijing municipal government released its Air Pollution Action Plan on September 2, recommending a scale-down of coal power in an effort to reduce carbon emissions. The proposal says emissions should be capped at 10 million metric tons annually, reducing total emissions by 13 million metric tons by 2017. The plan also includes plans to address emissions from heavily polluting industries and automobiles.

World Water Week

The Stockholm International Water Institute's World Water Week conference was held in the Swedish capital city September 2 through 6. UN Deputy Secretary-General Jan Eliasson commented during the opening session that conflicts could arise from international disputes over water resources; he advocated for fair water management practices.

Japan Proposes CFP Offset Verifications

A September 3 Japanese Ministry of Economy, Trade, and Industry meeting resulted in the proposal to introduce offset verifications to its carbon footprint of products program. The program has already identified 716 products over its four years, and these products are then later labeled according to lifecycle greenhouse gas emissions. Participants said the proposal for offset verifications could further reduce consumer and industrial emissions.

CCAC Meeting in Oslo Held

The Climate and Clean Air Coalition to Reduce Short-Lived Climate Pollutants met September 3 in Oslo, and members pledged to increase efforts to reduce these pollutants such as black carbon. 10 initiatives were adopted, including one to phasedown production and consumption of hydrofluorocarbons. The 72 members include 34 countries and 38 companies and organizations, including the United States and the U.N. Environment Programme.

ICAO Council Approves 2016 Plan

The International Civil Aviation Organization Council, consisting of 36 nations, agreed September 4 to have countries design a market-based mechanism to curb greenhouse gas emissions by 2016 in order to implement the plan in 2020. The plan is meant to satisfy concerns, including those by the U.S., about the European Union Emissions Trading System from aviation; under the plan, the scheme would only apply to EU airspace before 2020. The full organization will consider the proposal in Montreal on September 24.

EC Approves ETS Plans

At a September 5 meeting, the European Commission most member states' Emissions Trading System plans to allocate carbon allowances through 2020. Proposals from the Czech Republic and Germany were not approved because they were found in noncompliance with allocation rules. The third phase of the system, which lasts from 2013 to 2020, will be conducted via auctions; the Commission reported that approximately 43 percent of the allowances in this phase will be free.

Harper Letter to Obama

According to a September 6 CBC [report](#), Canadian Prime Minister Stephen Harper sent a letter to President Obama in late August pledging joint action to reduce oil and gas sector emissions if the U.S. approves the Keystone XL pipeline. The Obama administration has not yet responded to the letter. In response to the article, Sierra Club Executive Director Michael Brune said the offer is laughable.

G-20 Fossil Fuel Subsidy Phasedown

Following the G-20 Summit meeting in Russia on September 6, representatives from the 20 member countries reaffirmed their 2009 pledge to phase out subsidies to the fossil fuel sector. The announcement included an ask for members to provide a progress report at the next meeting.

STATES

Western Governors Promote State Fracking Regulations

The Western Governors Association [wrote](#) to Interior Secretary Sally Jewell on August 23, urging the Bureau of Land Management to recognize state regulatory authority in fracking practices. A September 4 [statement](#) by the group explained that the proposed rule *Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands* has redundant regulations.

RGGI Auction Results Announced

In a September 6 announcement, the Regional Greenhouse Gas Initiative reported that at its most recent auction, 38.4 million carbon dioxide allowances were sold at a \$2.67 per credit. In total, \$102.5 million was collected from the nine participating states, and the initiative reported that bids were twice the number of credits available. The next auction will be held on December 4.

SUSTAINABILITY

CEA Sustainability Report 2013

The Consumer Electronics Association released its [2013 Sustainability Report](#) on September 4, announcing that lifecycle assessments have increasingly been used to improve environmental performance of consumer electronics. Two dozen case studies were conducted, and the report said consumer acceptance of the Green Electronic Council's Electronic Product Environmental Assessment Tool has grown.

MISCELLANEOUS

Climate Change, Freshwater Fish Report Released

[Swimming Upstream: Freshwater Fish in a Warming World](#), a September 4 report by the National Wildlife Federation, found that rising temperatures associated with climate change are spurring fresh water fish kills. Warmer waters promote disease, dissolved oxygen depletion, habitat loss, invasive species, pollution, and thermal stress for freshwater fish. 147 species are currently on the federal endangered species list.

RFA on RFS Riders

In a September 5 press call, Renewable Fuels Association President Bob Dinneen said the industry is expecting Congress to include riders modifying or repealing the Renewable Fuel Standard on upcoming hot button issues like the debt ceiling. He commented that he does not think the program needs to be changed.

2012 Extreme Weather Events Report Released

[Explaining Extreme Events of 2012 from a Climate Perspective](#), a September 5 supplement to the Bulletin of the American Meteorological Society, found that sea-level rise caused by climate change has increased the odds of future storm surge flooding recurrence. The report studied 12 extreme weather events from 2012, and researches discovered climate change was a contributing factor in half of the events. The National Oceanographic and Atmospheric Administration contributed to the report.

ACEEE Report on Shaheen-Portman

The American Council for an Energy Efficient Economy's September 5 white paper [Economic Impacts of the Energy Efficiency Provisions in the Energy Savings & Industrial Competitiveness Act of 2013 and Select Amendments](#) reported that [S. 1392](#) ("Shaheen-Portman") and certain amendments could support 174,000 jobs and could save consumers \$65 billion by 2030. In addition, the legislation could result in the curbing of 676 million metric tons of emissions by 2030. Executive Director Steven Nadel urged the Senate to act quickly on the bill in an accompanying statement.