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## **ENERGY AND ENVIRONMENT UPDATE** **July 8, 2012**

### **Energy and Climate Debate**

Congress returns this week after the Independence Day recess, and when it does, a number of energy issues will be on the agenda.

After a lengthy debate and intense negotiations between the House and Senate, President Obama signed the transportation bill into law July 6 in a White House ceremony with construction workers and students. The legislation's program and policy reforms are in force through September 2014 and the gas tax is extended through 2016.

Now that the Senate has cleared a bipartisan farm bill, the House Agriculture Committee is moving forward with its own 557-page version of a five-year package that would include a number of additional cuts to agriculture spending, particularly to the food stamp program. The Farm Bill sets national agriculture, nutrition, rural energy, conservation, and forestry policy for a period of five years; the last measure, passed in 2008, expires September 30. The Senate-passed bill would cut agriculture spending by \$23 billion over five years, and the House version, the Federal Agriculture Reform and Risk Management Act, includes even larger cuts. The measure does include text on key Department of Agriculture energy programs, but, unlike the Senate language, the House does not include any mandatory funding for energy programs; it also includes spending cuts of at least \$6 billion over the next ten years from conservation programs and saves \$500 million by eliminating mandatory energy spending and reducing discretionary energy spending. Additionally, Agriculture Committee Chairman Frank Lucas (R-OK) and Ranking Member Collin Peterson (D-MN) include in the discussion draft a bill the House passed last March that bars the Environmental Protection Agency from issuing permits under the Clean Water Act for some pesticides already covered under the agency's Federal Insecticide, Fungicide, and Rodenticide Act. The committee will mark up the draft legislation July 11.

The Senate will consider small business tax legislation this week, taking a vote on the motion to proceed to the Small Business and Tax Relief Act (S. 2237) early in the week. The House will vote on the repeal of the health care law, and will consider legislation pertaining to mining licenses (H.R. 4402) as well as the Hydropower Regulatory Efficiency Act (H.R. 5892).

### **Congress**

#### **Mercury Rule Delay Requested**

Senators Lamar Alexander (R-TN), Roy Blunt (R-MO), Richard Burr (R-NC), Bob Corker (R-TN), John Hoeven (R-ND), Johnny Isakson (R-GA), Mary Landrieu (D-LA), Claire McCaskill (D-MO), Mark Pryor (D-

AR), Mark Warner (D-VA), and Jim Webb (D-VA) sent a letter to President Obama June 29 asking him to give power plants an additional two years to comply with the Environmental Protection Agency's new mercury and air toxics standards, thus increasing the compliance timeline to six years. The Clean Air Act gives sources three years to comply, and local permitting agencies may allow an additional year. The act also allows the president to delay the rule for up to two years if he determines that necessary technology is unavailable. Senators Alexander and Corker said the same day that if the president does not issue an executive order granting additional compliance time, they would introduce legislation to do so.

#### LNG Export Licenses Sought

Led by Representatives Bill Johnson (R-OH) and Tim Ryan (D-OH), twenty-one members of Congress from states active in shale gas development sent a letter June 29 to Energy Secretary Steven Chu urging the department to expedite the approval of licenses to export liquefied natural gas. The agency is completing a macroeconomic study on the potential impacts of natural gas, including economic growth and balance of trade, before granting any more permits; but lawmakers are frustrated with the agency's delay, as the study was initially due in March but will instead be released this summer.

#### Upcoming Hearings

The House Energy and Commerce Subcommittee on Energy and Power will hold a hearing July 10 to consider the challenges and opportunities of alternative fuels and vehicles.

The following day, the House Energy and Commerce Subcommittee on Oversight and Investigations will consider fake biofuel credits being sold on the market and what the Environmental Protection Agency can do to ensure integrity of the program.

The House Energy and Commerce Subcommittee on Energy and Power will hold a continuation of its hearing July 12 on the American Energy Initiative. The hearing will focus on discussion drafts of the "No More Solyndras Act" and the "Smart Energy Act."

### **Administration**

#### Pulp and Paper Review

The White House Office of Management and Budget is completing an interagency review of a final Environmental Protection Agency rule to revise emissions standards for facilities that produce pulp or paper. The agency, which is under a court-ordered deadline to finalize the rule by July 31, signed the proposed rule December 15, tightening emissions standards at a cost of \$6.2 million annually for emissions controls, testing, and monitoring. The rule would affect 171 facilities and reduce air toxic emissions by 4,000 MT per year.

### **Department of Defense**

#### Biofuel Use

Navy Secretary Ray Mabus said July 2 that he is confident Congress will not block the military's use of biofuels. The remarks come as the agency, along with the departments of Agriculture and Energy, announced \$62 million in federal funding for biofuel development, including \$30 million for commercial-scale, drop-in biofuels. The funding was appropriated for fiscal year 2012, and thus will not be affected by congressional efforts to limit the Pentagon's use of biofuels.

### **Department of Energy**

#### Plug-In Vehicle Readiness Information

The Department of Energy published a notice July 5 announcing plans to assess the readiness of communities across the country to deploy plug-in electric vehicles. The agency seeks to distribute a scorecard about the ability and commitment of participants in its Clean Cities Coalitions and others to deploy plug-in electric vehicles. The department has requested approval from the White House Office of Management and Budget to collect information pertaining to electric vehicle supply equipment permitting and inspection; electric vehicle supply equipment availability; laws, incentives, and financing; education

and outreach; utility interaction; and vehicle infrastructure and planning for the “Clean Cities Plug-In Vehicle Community Readiness Scorecard.”

#### Coal and Natural Gas Generate Equal Electricity

The Energy Information Administration reported July 6 that coal-fired and natural gas-fired power plants in April generated equal amounts of the country’s electricity – 32 percent – for the first time since the government began collecting data on power generation. The agency credited low natural gas prices, which reached a ten-year low of \$2.74 per million British thermal units in April, for the trend.

#### **Department of Interior**

##### Wind Energy Approval Forthcoming

The Department of Interior announced July 2 that a 3,000 MW, 1,000 turbine, wind farm in Wyoming and a special 164,750 acre zone for wind energy projects off the coasts of Massachusetts and Rhode Island could receive approval by the end of the year. Environmental assessments for the proposed Chokecherry and Sierra Madre Wind Farm sites – potentially the largest in the nation – have been completed, as have assessments for the area off the coasts of Massachusetts and Rhode Island. If the agency finds that the projects will have no significant impact on their environment, lease sales could begin by the end of the year.

##### Western Transmission Line Settlement

The Department of Interior’s Bureau of Land Management and the Forest Service, and the Department of Energy reached a settlement in the U.S. District Court for the Northern District of California July 3 with a coalition of environmental groups creating a new process for siting energy transmission lines in the western United States. The settlement requires the agency to revise a West-wide Energy Corridors plan incorporating general principles in the location of energy corridors for pipelines and power lines across 11 Western states.

#### **Department of Treasury**

##### Alternative Fuel Mix Credit Requirements

The Internal Revenue Service Office of Chief Counsel posted a program manager technical advice memorandum June 30 instructing that in order to qualify for the alternative fuel mixture credit, biomass liquid fuel must be usable as a stand-alone fuel and capable of producing energy. For example, a byproduct from the paper manufacturing process is not an alternative fuel, nor is rejected mouthwash derived from ethanol or methanol.

#### **Environmental Protection Agency**

##### Fake Biofuel Credit Challenge

OceanConnect LLC filed suit June 29 in the U.S. Court of Appeals for the District of Columbia challenging 13 settlements the Environmental Protection Agency reached with petroleum refiners and others that purchased Link fake biofuel credits. The agency reached settlements this April with 30 refiners and other companies that agreed to pay \$3.65 million in penalties after they purchased millions of fraudulent renewable fuel credits. Refiners and other nonrenewable fuel companies are required to purchase biofuel credits, or renewable identification numbers, to meet their obligations under the federal renewable fuel standard.

##### Coal Ash Impoundments Up

The Environmental Protection Agency released data June 27 acknowledging the existence of hundreds more ponds and landfills storing power plant coal ash than were previously reported. There are at least 1,161 ponds across the country, 451 more than previously acknowledged; 46 percent of the ponds are unlined, thus potentially increasing the likelihood of heavy metals leaching into nearby groundwater. There are 393 acknowledged coal ash landfills, up from 337; more than 40 percent lack liners, and 53 percent lack leachate collection systems.

### Ozone Standards Defended

The Environmental Protection Agency filed a brief in the U.S. Court of Appeals for the District of Columbia Circuit July 2, defending the Bush administration's decision to set the ozone air quality standards at 0.075 ppm, a level that Administrator Lisa Jackson called "not legally defensible" a year ago. The agency said the scientific evidence available when the agency set the 2008 standards did not justify more or less stringent levels, as environmental and health groups and industry challengers, respectively, preferred. The agency considered the body of scientific evidence as a whole, thus determining that 0.075 ppm national ambient air quality standards acceptable.

### Tailoring Rule's Third Step Unveiled

The Environmental Protection Agency released the third step of its tailoring rule July 3. The agency did not revise the greenhouse gas permitting thresholds, but did approve plant-wide applicability limits for industrial facilities. New facilities that emit 100,000 MT/year CO<sub>2</sub>e and existing facilities that increase their emissions by 75,000 MT/year CO<sub>2</sub>e will be required to obtain prevention of significant deterioration and Title V operating permits. The agency will complete a study of the associated administrative burdens by April 30, 2015, and the next permitting threshold review is due a year later. It has also created a Clean Air Act Advisory Committee work group to explore options for easing the permitting burdens on states and industries, and will submit a report in October.

### Fracking Comment Extension

According to a July 9 *Federal Register* notice, the Environmental Protection Agency will extend for 45 days the public comment period on its permitting guidance for fracking that uses diesel fuels, making the new deadline August 23. The agency has received comments from state officials and members of Congress opposing federal regulation that they believe state authorities should address instead. Environmental advocates have filed comments seeking a ban or at least stricter regulation on fracking.

## **Personnel**

Outgoing Nuclear Regulatory Commission chairman Gregory Jaczko said July 5 at his last news conference that he fears a slowdown for implementing post-Fukushima safety reforms for U.S. nuclear power plants because of the industry's desire to emphasize cost-benefit analysis rather than prevention of low-probability, high-risk events. Allison Macfarlane will be sworn in as new chairman this week.

## **States**

### NC Overrides Gov's Fracking Veto

North Carolina legislators overrode Governor Bev Perdue's (D) veto of a bill July 2 that would open the state's untapped natural gas reserves to fracking. After Democratic Representative Becky Carney accidentally pressed the button in favor of overriding the veto, the House hit exactly the three-fifths majority, 72-47, necessary to override. The Senate voted 29-13 to override the veto. The legislation (S.B. 820) creates a commission that will develop regulations for fracking by 2014. Well permitting will not begin until the regulations are in place and the Legislature passes an additional piece of legislation.

### PA Bans SE Nat Gas Drilling Until 2018

Pennsylvania Governor Tom Corbett (R) signed a bill (S.B. 1263) last week that includes a six year moratorium on natural gas drilling in the southeastern part of the state. The measure bars the state's Department of Environmental Protection from issuing drilling permits in the basin until the Department of Conservation and Natural Resources evaluates the practical resource recovery implications and fiscal impact of developing the area's gas deposits.

### CA Leads in Private Solar Installations

The California Public Utilities Commission released a report July 2 finding that California homeowners and businesses installed over 1,000 MW of solar energy capacity through the end of last year, nearly a third of that coming online in 2011 alone. The Commission concluded that lower costs for residential solar systems and financial incentives provided through the 2007 California Solar Initiative have helped the state to lead the nation in customer-generated solar energy.

### MI Pushes for RE Proposal

Michigan Energy Michigan Jobs said July 6 that it has collected more than 530,000 signatures, enough to place a proposal on the November ballot asking voters to decide whether the state should require 25 percent of the state's energy to come from renewable sources by 2025. It turned the signatures into the Michigan Office of the Secretary of State, which must verify the signatures before the question can be put to the voters.

## **International**

### Cyprus' Environmental Priorities

On July 2, a day after taking over the rotating helm of the European Union from Denmark, Cyprus presented its half-year work program in all policy areas. The small Mediterranean island nation announced that its top environmental priorities include financing climate change measures, safeguarding water resources, and preparing the block's seventh Environmental Action Program. The Cypriot European Union presidency will place adaptation financing on the agenda of the July 7-8 Informal Environment Council for ministers; it will wait for the European Commission's "Blueprint to Safeguard Europe's Water Resources" in November, and will co-host a water resource conference November 26-27 in Nicosia.

### EU Environmental Report Card

The Green 10 Alliance released an assessment July 3 finding that the European Commission has fallen behind on its environmental goals. The report includes grades on a scale from 1 to 10 in nine European Union policy areas and for 14 commissioners. Transparency received the worst mark, 3.0, followed by agriculture and chemicals, both 3.5. Transportation policy, 5.0, and climate change, 5.5, received the highest marks.

### Successful BC Carbon Tax

Sustainable Prosperity released a report June 27 concluding that British Columbia's carbon tax has lived up to expectations by reducing fuel use in the province by almost 15 percent. The report found that the tax has spurred companies, organizations, and individuals to invest in renewable energy and energy efficiency, helping to decouple the province's economic growth from fossil fuel use. The British Columbia government released a report the same day noting a reduction in sales of the principle types of fossil fuels since 2007. The Pembina Institute and Energy and Materials Research Group at Simon Fraser University released a study June 25 reporting that most businesses, nongovernmental organizations, academics, and community leaders in the area support the tax.

### Natural Gas Flaring Up

A World Bank-led partnership announced June 3 that flared natural gas increased slightly last year, interrupting years of progress in reducing a substantial source of greenhouse gas emissions. The flaring increase, from 138 billion cubic meters in 2010 to 140 bcm in 2012, was largely due to an upswing in natural gas production, particularly via fracking, in the United States, Russia, Kazakhstan, and Venezuela. Natural gas flaring has declined 20 percent over the last six years.

### Carbon Trading Market Volatile

GlobalData released a report last week finding that global prices in the carbon dioxide emissions trading market are projected to be volatile in both the near and long term due to economic and policy uncertainty. The report, Future of Emission Trade: Price Volatility Will Be a Key Characteristic of the Commodity, concludes that carbon prices will remain low in the near term because of the European debt crisis and an oversupply of credits, but the market will continue to be volatile due to uncertainty about the future of the Kyoto Protocol. Carbon prices will increase if India, China, and Brazil promise to meet certain emissions targets by 2020, or if other emerging regional and national climate markets are successful.

### Voluntary Chinese Emissions Trading

China's National Development and Reform Commission issued interim measures last week for establishing exchanges for voluntary carbon dioxide emissions reduction credits trading. The commission

approved a pilot scheme in 2011 for trading emissions in Beijing, Tianjin, Shanghai, Chongqing, Shenzhen, Hubei, and Guangdong. The pilot areas are said to be close to finalizing their rules. China has set a goal to reduce its carbon intensity by 40 to 45 percent by 2020.

#### U.N. Adaptation Workshop

The United Nations Framework Convention on Climate Change will host its first workshop on long-term financing of climate change initiatives on July 9-11. The Bonn workshop is part of a larger effort to hasten financing for poor countries' efforts to adapt to the impacts of climate change, and will focus on options for mobilizing resources from public and private sources and public-private partnerships, an analysis of climate-related needs of developing countries, the integration of lessons and best practices from previous funding initiatives, and a discussion of delivery mechanisms for assistance.

#### Green Building Investment Hotspots

Lux Research released a study July 5 finding that the United States, Singapore, South Korea, Australia, and Germany are the top global hotspots for green building investment. The study, *Policy's Dramatic Impact on Green Buildings: The Global Hotspots*, concluded that the countries are perfect for such expenditures because of high per-capita income and policies that encourage green investment.

#### IEA Finds RE Increasing

In presenting the first ever *Medium-Term Renewable Energy Market Report 2012*, the International Energy Agency said July 5 that the Environmental Protection Agency's stricter emissions standards for coal-fired power plants as well as strong state mandates for renewable energies are boosting renewable energy deployment prospects and reducing coal prospects in the United States. Despite economic uncertainties in many countries, global power generation from hydropower, solar, wind, and other renewable energy is projected to increase by more than 40 percent to almost 6,400 TWh between now and 2017, roughly one and a half times current United States electricity production. The agency expects emerging non-IEA countries, especially China, to lead the generation surge. The same report found that federal-level financial incentives, especially tax credits, have enhanced the economic attractiveness of renewable technologies, but that more consistency and predictability is needed.

#### Battery Proposals Delayed

The United Nations Subcommittee of Experts on the Transport of Dangerous Goods finished its June 25-July 4 meeting by asking sponsors of proposals intended to facilitate the shipment of damaged, defective, and waste lithium batteries to submit revised proposals at the next subcommittee meeting, December 3-12. Panel members were not convinced that the proposals from the Portable Rechargeable Battery Association and the International Association for Advanced Rechargeable Batteries sufficiently addressed handling and safety issues.

#### South Korea Airline Emissions Down

South Korea's Ministry of Land, Transport, and Maritime Affairs issued a plan June 29 guiding airlines to reduce their greenhouse gas emissions by 30 percent from business as usual levels by 2050. The ministry's plan calls for upgrading airline fuel efficiency by an average 1.3 percent every year to achieve a reduction of 10.52 MMT of CO<sub>2</sub> by 2050; the country's 2010 airline emissions totaled 16 MMT.

#### Canada Harmonizes Diesel Standards

Environment Canada published final regulations July 4 requiring operators of large vessels in the country's waters to use diesel fuel with significantly lower sulfur levels starting June 1, 2014. The amendments to regulations under the Canadian Environmental Protection Act will harmonize Canadian standards with United States standards. The amendments also harmonize the two nations' standards for sulfur in diesel fuel used in stationary engines.

#### Climate Change's Poverty Impact

The United Nations released two reports, *Food Security and Climate Change*, and *Social Protection for Food Security*, July 3 finding that without sufficient climate change action, global temperatures could increase more than 7 degrees Fahrenheit by the end of the century, resulting in sea level rises, drought,

and floods that pose a significant threat to food production and populations already in poverty in sub-Saharan Africa and South Asia.

## **Miscellaneous**

### Waste-to-Energy Market Growing

SBI Energy released a report last week finding that the global waste-to-energy market will expand 11.2 percent annually to \$27.2 billion by 2021. The report, *Waste to Energy Technologies, Market Size and growth: 2006-2021*, concluded that fueled by strong energy demand and new technologies, waste-to-energy technologies expanded from \$4.8 billion to \$7.1 billion between 2006 and 2011. Pike Research estimated in March that the waste-to-energy market would reach \$29.2 billion and perhaps as much as \$80.6 billion by 2022.

### RGGI Changes Delayed

The Regional Greenhouse Gas Initiative announced July 2 an updated schedule for a comprehensive review of its greenhouse gas cap and trade program, delaying any changes until at least the end of the year. The primary item under review is the carbon dioxide emissions cap and whether it should be lowered; current emissions are already significantly below the program's 188 million-ton cap. RGGI initially planned to retain the cap through 2014 and then lower it by 2.5 percent per year over the next four years.

### NW Consumer-Based EE Programs

Bonneville Power Administration announced July 2 that it is funding three pilot programs by Northwest utilities to reduce energy use by changing consumer patterns. The federal power marketing agency will provide up to \$300,000 per year for projects at the Snohomish County Public Utility District, the Cowlitz Public Utility District, and Clark Public Utilities for the next three years. The administration competitively selected the behavior-based energy efficiency programs, which includes a project that challenges Starbucks employees at different stores to save the most energy.

### Navistar Shifts Strategy to Meet EPA Standard

Navistar International Corp. announced July 6 that it will abandon the underachieving emission control systems on current truck models and move toward new clean energy technology that employs urea-based after-treatment. The "In-Cylinder Technology Plus" would allow its trucks to meet the Environmental Protection Agency's 2010 standard for nitrogen oxides in advance of the 2014 and 2017 compliance deadlines.