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ENERGY AND ENVIRONMENT UPDATE

May 28, 2013

ENERGY AND CLIMATE DEBATE

Though Congress is out on Memorial Day recess this week, we anticipate a significant amount of work to be accomplished the weeks to follow. The Senate is expected to easily approve Dr. Allison Macfarlane to be Nuclear Regulatory Commission Chairman, Penny Pritzker to be Secretary of Commerce, and Anthony Foxx to be Secretary of Transportation. It is less clear when the Senate will vote on the nomination of Gina McCarthy to be Environmental Protection Agency Administrator. The spokesperson for Senate Environment and Public Works Ranking Member David Vitter (R-LA) projected the vote to be held in June, although Senate Majority Leader Harry Reid (D-NV) has said he does not have a time frame for the vote.

Last Tuesday and Thursday, the Senate Energy and Natural Resources Committee held its second and final forums on natural gas. Issues discussed included export terminals and hydraulic fracturing. Chairman Ron Wyden (D-OR) said he, Ranking Member Lisa Murkowski (R-AK), and committee members will have high level conversations in the upcoming weeks to create legislation around recommendations from the participants.

The Senate is expected to vote on its version of the Farm Bill following this recess, possibly next week. The Shaheen-Portman energy efficiency package and several bipartisan hydropower bills are likely to receive floor time this summer. However, the Northern Route Approval Act, which was approved by the House 241-175 on Wednesday, is less likely to see time in the Senate. The President has released a memo stating his intention to veto the bill, and members from both sides of the aisle have written to him on the issue.

Off the Hill, Secretary of Energy Ernest Moniz was sworn in on Tuesday and has already spoken out about energy efficiency, natural gas export terminals, and renewable energy. The same day, the Environmental Protection Agency published its long awaited Tier 3 rule. Following industry comments, the agency extended the public comment period on the gasoline sulfur concentration regulations to July 1.

CONGRESS

Republican MO New Source Rule Opposition

Senator Roy Blunt (R-MO) and Representatives Sam Graves (R-MO), Vicky Hartzler (R-MO), Billy Long (R-MO), Blaine Luetkemeyer (R-MO), and Ann Wagner (R-MO) sent a [letter](#) to President Obama May 20 opposing the Environmental Protection Agency's proposed GHG rules for new power plants. The group urged the agency to revise the rules to differentiate between sources since the rule is expected to raise plant construction cost by 80 percent for the coal industry.

Public Land Fracking Comment Extension Sought

House Natural Resources Chairman Doc Hastings (R-WA) and Ranking Member Ed Markey (D-MA) sent a [letter](#) to Interior Secretary Sally Jewell May 21 requesting that the comment period for the recent fracking on public land draft rule be extended from 30 to 120 days.

Energy Swap Dealer Letter Sent to CFTC

Senator Dianne Feinstein (D-CA) led a May 20 [letter](#) to Commodity Futures Trading Commission Chairman Gary Gensler on a rule that does not require energy swap dealers to register with the agency. The letter, cosigned by 5 western state Democratic senators, asked the agency to review the number of dealers claiming the exemption as well as the impact on the agency's oversight abilities.

Corker, Barrasso, Inhofe Farm Bill Amendments Filed

Senator Bob Corker (R-TN) introduced an amendment to the Farm Bill May 21 that would make the Environmental Protection Agency reduce the Renewable Fuel Standard requirements for advanced biofuels when it reduces requirements for ethanol. The Senator introduced language identical to S. 977, the Foreign Fuels Reduction Act, on May 16 with Senator Joe Manchin (D-WV). Senator John Barrasso (R-WY) filed an amendment to repeal the Renewable Fuel Standard. Senator James Inhofe (R-OK) introduced an amendment that would make the standard optional for states.

House Democrat Letter to Moniz

House Science, Space, and Technology Ranking Member Eddie Bernice Johnson (D-TX) and 22 of her Democratic committee colleagues sent a letter May 21 to Energy Secretary Ernest Moniz advocating for more attention to water quality issues. Citing recent drought and clean drinking water issues, the representatives urged the secretary to finish a report on how to produce energy without impacting water quality.

Natural Gas Forums Held

The Senate Energy and Natural Resources held two forums May 21 and 23 on natural gas. The May 21 forum focused on natural gas exports; several participants urged quick action in approving LNG export terminals. The May 23 forum focused on industry best practices for production and environmental concerns; many participants praised a states-first approach for fracking regulation.

Northern Route Approval Act Approved

The House voted 241-175 on May 22 in support of H.R. 3, the Northern Route Approval Act. An amendment introduced by Representative Randy Weber (R-TX) to showcase past Department of State environmental studies was approved 246-168. An amendment by Representative Steve Cohen (D-TN) to require Keystone XL owner TransCanada to submit oil spill response plans to impacted states was approved by a voice vote.

Grid Reliability Bill Passes House

The House approved H.R. 271, the Resolving Environmental and Grid Reliability Conflict Act of 2013, on May 22 by a voice vote. The bill would protect utilities from environmental regulation lawsuits when complying with Department of Energy generation orders during emergencies.

House Appropriations Outlines Cuts to Energy, Environmental Allocations

The House Appropriations Committee approved a spending plan outlining allocations to the various appropriations subcommittees on May 22. The plan, which is based on the House-passed fiscal year 2014 budget, represents significant cuts to energy and environmental programs. The proposal recommends spending on the environment, interior, and related agencies at 18.4 percent below current levels and spending for energy and water development and related agencies at 17 percent below current levels. A copy of the full subcommittee allocation plan is attached.

CBO Carbon Tax Report Published

The Congressional Budget Office released its report [*Effects of a Carbon Tax on the Economy and the Environment*](#) on May 22, finding that a carbon tax could raise significant federal revenue. A 2011 report had estimated that a \$20 per ton tax as part of a cap and trade system could create up to \$1.2 trillion in revenue in the first decade. While it praised progress, the report warned that overall environmental impact would not be substantial since the U.S. accounts for less than one-fifth of worldwide emissions. The study also found that the tax would increase production costs on certain industries such as electricity; low-income households would be impacted most since a greater portion of their income is spent on affected products and services.

Baucus on Carbon Tax Possibility

Senate Finance Chairman Max Baucus (D-MT) said May 23 that a carbon tax is one of the options the committee is considering as part of an effort to reform the tax system.

McCarthy Hold in Place

Senator Roy Blunt (R-MO) met with Environmental Protection Agency Administrator Nominee Gina McCarthy May 22 to discuss concerns he has about a Missouri flood-control project. Following the meeting, the senator announced that he would retain the hold on her nomination because he was not satisfied with their discussion.

Macfarlane Nomination Considered

The Senate Environment and Public Works Committee considered the nomination of Dr. Allison Macfarlane to serve a full term as Nuclear Regulatory Commission Chairman on May 23. While most of the committee praised her work at the commission, Senators John Barrasso (R-WY), James Inhofe (R-OK), and Jeff Sessions (R-AL) expressed concerns about some of her work, including her vote on a filtered vents rule. Macfarlane's current term expires June 30, and a committee vote is expected as early as next week.

Keystone XL Letters Sent

Senator John Barrasso (R-WY) led a May 23 [letter](#) urging President Obama to approve the Keystone XL pipeline without creating additional environmental policies like a carbon tax, fuel standards, or power plant emissions standards. The letter, cosigned by 23 Senate Republicans, cited Democratic proposals to issue climate change regulations concurrently with the pipeline approval. The same day, citing climate change and economic issues, Representative Raul Grijalva (D-AZ) was joined by 30 of his House Democratic colleagues in sending a [letter](#) urging the president to oppose the Keystone XL pipeline.

Desalination Process, Energy Issues Linked

The House Natural Resources Subcommittee on Water and Power held a May 23 hearing to discuss water desalination legislation. Witnesses said further research could be beneficial to energy issues since electricity costs account for one-third to one-half of the desalination process.

Climate Change Clearinghouse Update

Members of the Senate Climate Change Clearinghouse announced May 23 that the group, which was formed in December 2012, regularly meets to discuss and create legislation. The group is working with House members to advance climate change legislation. The clearinghouse is co-chaired by Senators Barbara Boxer (D-CA), Robert Menendez (D-NJ), and Ron Wyden (D-OR).

Bills Introduced

- On May 21, Representative Eliot Engel (D-NY) introduced [H.R. 2075](#), a bill to enhance the energy security of the United States, reduce dependence on imported oil, improve the energy efficiency of the transportation sector, and reduce emissions through the expansion of grid supported transportation.
- The same day, Representative Mac Thornberry (R-TX) introduced [H.R. 2081](#), a bill to secure unrestricted reliable energy for American consumption and transmission.
- On May 22, Senators Frank Lautenberg (D-NJ) and David Vitter (R-LA) introduced [S. 1009](#), the Chemical Safety Improvement Act of 2013. The bipartisan bill with 15 additional cosponsors modernizes chemical laws under the Toxic Substances Control Act.
- On May 23, Senators Ron Wyden (D-OR), Susan Collins (R-ME), Jeff Merkley (D-OR), and Angus King (I-ME) introduced [S. 1030](#), the Storage Technology for Renewable and Green Energy (STORAGE) Act of 2013. The bill would establish \$1.5 billion worth of investment tax credits for energy storage systems.
- The same day, Senators Amy Klobuchar (D-MN), Al Franken (D-MN), and John Hoeven (R-ND) introduced [S. 1073](#), a bill to require refineries to report to the Department of Energy planned and unplanned maintenance that brings their plants offline.
- The same day, Representative Paul Gosar (R-AZ) introduced [H.R. 2162](#), the Environmental Compliance Cost Transparency Act of 2013. The bill would require the reporting of electricity costs related to environmental regulations.
- The same day, Representative Mac Thornberry (R-TX) introduced [H.R. 2202](#), the LNG Excise Tax Equalization Act of 2013. The bill, which has two Republican cosponsors, would make the LNG and diesel excise taxes comparable on an energy-equivalent basis.

Upcoming Hearings

The Senate Energy and Natural Resources Committee will host a hearing June 6 to review Department of Interior programs.

ADMINISTRATION

Northern Route Approval Act Veto Threatened

The White House issued a [formal statement](#) on May 21, saying that President Obama would consider vetoing H.R. 3, the Northern Route Approval Act, if it comes to his desk. The bill would remove the presidential approval requirement for the Keystone XL pipeline.

Army Corps Petitioned to Conduct Coal Terminal EIS

Groups including Greenpeace, the National Wildlife Federation, and the Sierra Club petitioned May 22 the U.S. Army Corps of Engineers to conduct an environmental impact statement for the proposed Boardman, Oregon; Cherry Point, Washington; and Longview, Washington coal export

terminals. The petition asked the Corps to examine projected global greenhouse gas emissions, public health risks, and traffic impacts from the terminals.

DEPARTMENT OF ENERGY

EIA Ethanol Production Capacity Report Released

The U.S. Energy Information Administration released on May 20 its report [U.S. Fuel Ethanol Plant Production Capacity](#). The study found that as of January 1, 2013, the production capacity was 903,000 barrels per day compared to the 2012 level of 896,000 barrels per day; 2013 levels came from 193 operating plants. Approximately 383,000 jobs are supported by the ethanol industry.

UL Verification Services Inc. Notice of Petition

The Department of Energy published on May 21 a notice of petition of UL Verification Services Inc. to be classified as a nationally recognized certification program for small electric motors. The public comment period is open until June 17.

Moniz Sworn In As Secretary

Dr. Ernest Moniz was sworn in as the Secretary of Energy on May 21. When addressing the department, Secretary Moniz said the LNG export terminal applications will continue to be examined on a case-by-case basis but with no timetable estimates; he said there were no plans to conduct new studies since he was still being briefed. His first actions in office included speaking at the 2013 Energy Efficiency Global Forum, being briefed by the National Nuclear Security Administration and by the Office of Intelligence and Counterintelligence, and meeting with the Cabinet at the White House.

Moniz on Energy Efficiency

Secretary Ernest Moniz said at the May 21 Energy Efficiency Global Forum that one of his major focuses will be energy efficiency. He praised the Shaheen-Portman Energy Savings and Industrial Competitiveness Act of 2013 (S. 761).

Moniz on Renewable Energy

Secretary Ernest Moniz urged the development and deployment of renewable energy at a May 22 Department town hall. Expressing strong support for wind power, the secretary noted that it will be important to bring renewable technologies to scale this decade. He also expressed support for low-carbon technologies like carbon capture and sequestration and small modular reactors.

EIA Projects Tax Credit Impact on Wind Generation

The U.S. Energy Information Administration reported on May 22 that the extension of the production tax credit and IRS clarification language could result in wind generation increases of up to 34 percent by 2016.

Tesla Pays off Loan Early

Tesla Motors paid back all of its \$465 million loan from the Department of Energy on May 22, nine years before it was due. The electric car maker originally received the loan from the agency in 2010. The payment was made after the company raised almost \$1 billion last week issuing new stocks and debt securities, capitalizing on its soaring stock price.

Better Building Energy Savings Reported

The Department of Energy announced May 22 that organizations enrolled in its Better Business Challenge have reduced their energy use by an average of 2.5% per year, leading to an estimated

\$58 million in estimated annual savings. The program, which is part of the Better Business Initiative, launched in early 2011 and is on track to reach its goal of reducing energy use in participating organizations 20 percent by 2020.

USEC, DOE Paducah Deal Not Settled

Negotiations surrounding a short-term extension of USEC's nuclear enrichment work at a Department of Energy Paducah, Kentucky site ended without a deal on May 23. The talks fell through because the parties could not come to an agreement beneficial to taxpayers and because the extension lacked a clear national security imperative. The current agreement for enrichment at the site will end this week.

DEPARTMENT OF INTERIOR

CA Wind Farm Condor Taking Approved

The Bureau of Land Management approved May 24 a California wind farm that permits the accidental death of one California condor, the first 'take' permit for the endangered species issued to a large-scale wind project. The wind farm will employ significant avoidance measures to minimize the risk to the birds, and the plant will surrender significant operating independence should a condor be struck by a turbine.

DEPARTMENT OF STATE

Keystone XL Comments to be Posted Online

The Department of State announced May 22 that it will publish most of the 1.2 million public comments online as part of the Keystone XL pipeline supplemental environmental impact statement. This announcement marked a change in department policy following requests for added transparency. The final environmental review is expected to be released in several weeks.

DEPARTMENT OF TREASURY

CO2 Sequestration Review Requested

The Department of Treasury requested May 23 the Office of Management and Budget review of recent Internal Revenue Service guidance on CO2 sequestration credits.

Inflation Adjustment Factors Released

The Internal Revenue Service released May 28 the inflation adjustment factors for renewable energy and refined coal production credits. The agency calculated the adjustment factor to be 1.5063 for coal and sources like biomass, geothermal, municipal solid waste, and solar energy.

ENVIRONMENTAL PROTECTION AGENCY

RFS Updates Released

The Environmental Protection Agency released a prepublication version of a notice of proposed rulemaking May 21 that makes technical amendments to the Renewable Fuels Standard. The changes clarify portions of the standards, including recognizing renewable diesel as well as renewable compressed and liquefied natural gas derived from biogas as a cellulosic biofuel.

Tier 3 Rules Published

The Environmental Protection Agency published its proposed [Tier 3 rule](#) on May 21. The regulations require gasoline refiners to reduce the concentration of sulfur from 30 parts per million to 10 ppm between 2017 and 2025. The rule, which was informally released in March, is expected to cost the industry \$3.4 billion in 2030 to comply; health benefits are expected to range between \$7.4 billion and \$23 billion per year. Two days later, the agency announced that it would extend the comment period from June 13 to July 1.

Coal-Fired Plant CO2 Emissions on the Rise

[Global Warming Emissions from Coal-Fired Power Plants in U.S. to Rise in 2013 after Long Decline](#) was released May 23 by the Environmental Protection Agency, the U.S. Energy Information Administration, and the Environmental Integrity Project. The study found that coal-fired power plant emissions rose 7.1 percent from the January-March 2012 levels to the January-March 2013 levels. By contrast, the 2005 to 2012 time period experienced emission reductions of 13.1 percent.

CA Non-Road Vehicle Program Approved

The Environmental Protection Agency announced May 24 that it will allow California to implement and enforce its own emission standards system for non-road diesel vehicles. The California Air Resources Board requested in March 2012 a preemption waiver to implement its own rules for these vehicles.

NUCLEAR REGULATORY COMMISSION

CT, MA, NY, VT Petition Waste Confidence Review

Connecticut, Massachusetts, New York, and Vermont petitioned the Nuclear Regulatory Commission May 22 to consider environmental, public health, and safety concerns when conducting the scoping review of its waste confidence rule. The agency will review the viability of safely storing spent nuclear fuel at decommissioned plants until a national repository is created.

USAID

USAID Releases Water and Development Strategy

The [USAID Water and Development Strategy 2013-2018](#) was released on May 21 by the U.S. Agency for International Development. The paper outlined how the agency plans to improve public health and access to food in developing countries through water programs; it included evaluation criteria, monitoring parameters, and quantifiable goals.

INTERNATIONAL

European Black Carbon, Inventory Guidelines Approved

The United Nations Economic Commission for Europe Task Force on Emission Inventories and Projections met in Istanbul May 13 to 15 where it approved black carbon and emission inventory guidelines. The updates are designed to make data comparable between countries as well as to improve black carbon emission estimates. The Executive Body of the Convention on Long-range Transboundary Air Pollution European Monitoring and Evaluation Program will now review the guidelines.

Canadian Renewable Fuel Standard Shift

Environment Canada released amendments to the country's renewable fuel standard May 18 to exempt home heating oil from certain requirements. The amendments signify a shift away from

past alignment with United States standards. The exemption was previously temporarily given to certain provinces, and the public has until July 17 to comment on the national exemption.

World Bank Launches Second Phase of Water Program

The World Bank launched Phase II of its Water Partnership Program on May 21 with an initial contribution of \$40 million. The program works to help countries protect themselves against the effects of climate change in addition to improving water management and services; it is run in cooperation with Denmark, the Netherlands, and the United Kingdom. Phase II focuses on initiatives such as cold weather sanitation, disaster risk management, remote sensing, and results-based financing.

SE4All Meeting Held

The United Nations Sustainable Energy for All Initiative Upper Level Advisory Board had its inaugural meeting May 21 with UN Secretary General Ban Ki-moon and World Bank President Jim Yong Kim presiding. Carbon War Room Founder Strive Masiyiwa joined the Board at the meeting.

EU Looks for Long-term Energy Policy

European Union leaders met May 22 to begin to map out a long-term energy strategy for the continent. This meeting comes after the European Parliament voted on May 21 to approve a non-binding resolution calling for the EU to adopt new renewable energy targets for 2030 and to reject an amendment calling for those targets to be between 40 and 45 percent of total energy production. It also follows a [letter](#) sent by CEOs of eight of the EU's largest energy companies calling for dramatic energy policy action.

EU, China Fail to Reach Compromise

Trade talks between the EU and China ended on May 27 without an agreement on issues surrounding cheap Chinese exports of solar panels. The EU alleges that Chinese companies are selling solar panels below cost in Europe, and has proposed a 50 percent anti-dumping tariff on Chinese solar equipment.

STATES

AK Letter Supporting ANWR Development Sent

Alaska Governor Sean Parnell (R) sent a [letter](#) May 20 to Interior Secretary Sally Jewell in support of development of the Arctic National Wildlife Refuge. Governor Parnell pledged \$50 million to research reserves in the region, contingent upon approval by the Alaskan legislature and upon matching funds by the federal government and by the private sector. The last seismic estimation was conducted 30 years ago. Alaskan officials have expressed their hopes that the report will be included in the Department of the Interior's ANWR Comprehensive Conservation Plan.

NC Sues Duke Energy

North Carolina Division of Water Quality filed suit against Duke Energy on May 20 over coal ash pond leaks at two facilities. The state alleged that illegal discharges came from ash ponds at facilities in Asheville and Riverbend resulting in state groundwater violations. The amended suit, filed in the North Carolina Superior Court for Wake County, asked for a court order instructing Duke to end the groundwater contamination. While the Riverbend facility stopped operations in April, the Asheville facility remains in use.

CA GHG Allowances Sold for \$14/ton

The California Air Resources Board announced on May 21 that it sold all of the 14.5 million GHG allowances offered at the cap-and-trade auction held the previous week. The auction had a settlement price of \$14.00 per ton and was the third auction held since the program began. The first and second auctions held had settlement prices of \$10.09 and \$13.62, respectively.

MN Governor Signs Solar Energy Jobs Act

Minnesota Governor Mark Dayton signed into law the Solar Energy Jobs Act on May 23 as part of a larger economic development measure. The legislation is expected to increase Minnesota's solar capacity from 13MW to more than 450MW, with annual spending of \$5 million from a state renewable development fund. The bill provides for an extension of a state rebate program to help finance the installation of solar, 10 percent of which will be required to come from systems no larger than 20KW.

NH RGGI Bill Passed

The New Hampshire Senate approved, 14-10, a bill May 23 to adopt the recent Regional Greenhouse Gas Initiative model rule. The bill, H.B. 306, was previously approved by the House 191-157, and Governor Maggie Hassan (D-NH) has said she will sign the bill.

NY Electric Vehicle Support

Governor Andrew Cuomo (D-NY) advocated for further development of the state's electric vehicle market May 24. He pushed for a full review of electric vehicle regulations in the state.

SUSTAINABILITY

GRI Releases G4 Reporting Guidelines

The Global Reporting Initiative released an [update](#) May 22 to its sustainability reporting system. The framework, G4, will encourage companies to focus their reports on information that is material to their business, leading to shorter and more relevant reports. The guidelines also include updated disclosures on greenhouse gas emissions, organizational governance, and supply chains.

MISCELLANEOUS

Airlines Identify Alternative Fuel Supply Issues

The Commercial Aviation Alternative Fuels Initiative announced at an International Civil Aviation Organization May 15 symposium that the industry has made progress on integrating alternative fuels but commercialization is being challenged by supply issues. More than 1,500 flights have used alternative fuels.

Rate-of-Return Report Released

The University of Calgary School of Public Policy released a report, [Not so Fast: How Slower Utilities Regulation Can Reduce Prices and Increase Profits](#), May 20. The report found that the rate-of-return regulatory model used by the Canadian National Energy Board, the Alberta Utilities Commission, the Federal Energy Regulatory Commission, and the Florida Public Service Commission increases costs because it values over-investment over cost reductions.

Sue-and-Settle Costs Report Released

[Sue and Settle: Regulating Behind Closed Doors](#) was released May 20 by the U.S. Chamber of Commerce, finding that the sue-and-settle tactic used in environmental rulemaking has resulted in \$488 billion worth of compliance costs between 2009 and 2012. Most of the costs were imposed by

the Environmental Protection Agency, and the utility MACT rule has been identified as the most expensive rule at \$9.6 billion annually.

Natural Gas Market Report Released

The Bipartisan Policy Center projected in its May 20 report [*New Dynamics of the U.S. Natural Gas Market*](#) that domestic natural gas supplies will support demand, lessening the risk of price spikes. While domestic and export demand are both expected to continue to rise, the prices will remain low thanks to efficient production.

Policies to Assist in Climate Reduction Goals

The Center for Climate Strategies reported May 23 that implementing 20 policies would significantly help the nation's effort in reducing emissions 17 percent from 2005 levels by 2020. The policies include appliance standards, combined heat and power incentives, electric vehicle rebates, and public transportation support.

Carbon Dioxide Emissions Increase

The Environmental Integrity Project released its report [*U.S. Power Plant Global Warming Emissions Rising in 2013, After Years of Decline*](#) on May 23, finding that first quarter 2013 carbon dioxide emissions are 7.14 percent higher than levels reported a year ago. The report linked the rise to an increase in natural gas prices, which has made coal more competitive. Coal-fired power plants were found to have a 13 percent emissions increase from the first quarter of 2012 to the first quarter of 2013.