

Energy and Environment Law Update - August 12, 2013

Article By:

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ENERGY AND CLIMATE DEBATE

With Congress out for the August recess, this week's major energy-related announcements came from the Department of Energy and the Environmental Protection Agency.

On Wednesday, the Energy Department approved a third liquefied natural gas export terminal. Required to review all facilities designed to export to non-free trade agreement countries by the Natural Gas Act, the agency found the Louisianan Lake Charles Exports LLC facility aligns itself with the public interest. In reviewing the economic, energy, and environmental impacts of the facility, the agency received approximately 200,000 public comments.

The Environmental Protection Agency on August 6 released the 2013 Renewable Fuel Standard volume requirements. 16.55 billion gallons of biofuels must be blended, and the compliance deadline was extended to June 30, 2014. The cellulosic requirement, originally proposed at 14 million gallons, was finalized to be 6 million gallons. The drop in the requirement was linked to an August 8 announcement that cellulosic producer KiOR fell short of projected production by 75 percent.

CONGRESS

Bicameral Report on DOE Climate Action

[Implementing the President's Climate Action Plan: U.S. Department of Energy – Actions the Department of Energy Should Take to Address Climate Change](#), an August 6 report by the Bicameral Task Force on Climate Change, recommended the agency thoroughly review climate change impacts associated with the proposed liquefied natural gas export terminals. The report also promoted energy savings performance contracts, state building code and utility rate structure reforms, and stronger energy efficiency standards.

Heller on Oak Ridge Nuclear Waste

In an August 6 [letter](#), Senator Dean Heller (R-NV) asked Energy Secretary Ernest Moniz to expand upon recent testimony to bring nuclear waste from Oak Ridge, Tennessee to the Nevada National Security Site. He is seeking information about the partnership between the agency and the state of Nevada and the status of the project.

Boxer Opposes Coal Reuse Bill

Senate Environment and Public Works Chairman Barbara Boxer (D-CA) sent a [letter](#) to her colleagues August 7 expressing concerns about [H.R. 2218](#), the Coal Residuals Reuse and Management Act. She commented that the legislation, which recently passed the House, would stop the Environmental Protection Agency from moving forward with developing national coal ash standards. The agency does not support the bill as it is written.

Dakotan Letter on Clean Air Act SIP

Six Dakotan members of Congress in an August 8 [letter](#) urged Environmental Protection Agency Administrator Gina McCarthy to reconsider the recent disapproval of parts of Wyoming's state implementation plan for Clean Air Act compliance. The members said citizens in North and South Dakota will see increased energy costs as a result of this decision; the agency proposed the installation of carbon reduction technologies, costs of which could be passed to consumers.

ADMINISTRATION

President Signs Hydropower Bills

President Obama signed H.R. 267, the Hydropower Regulatory Efficiency Act, and H.R. 678, the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act, into law on August 9. The first eases small-scale hydroelectric project licensing requirements at the Federal energy Regulatory Commission; the latter promotes hydropower project at Bureau of Reclamation facilities by lessening environmental review requirements.

WH, DOE Electric Grid Report

[*Economic Benefits of Increasing Electric Grid Resilience to Weather Outages*](#), an August 12 report by the White House Council of Economic Advisers and the Department of Energy, found that power outages associated with natural disasters have cost the U.S. economy \$18 billion to \$33 billion since the 2003 power outage in CT, MA, MI, NJ, NY, OH PA, and VT. The report praised the stimulus allocation of \$4.5 billion for smart grid technology.

DEPARTMENT OF COMMERCE

2012 Global Temperatures Make Record

The National Oceanic and Atmospheric Administration released its study [*State of the Climate 2012*](#) on August 6, reporting that 2012 was the eighth or ninth warmest year recorded globally. The U.S., eastern Canada, and parts of Europe and Russia felt the highest temperatures. Acting Administrator Kathryn Sullivan commented that climate indicators, such as ocean heat content, saw remarkable changes.

DEPARTMENT OF ENERGY

Building Code Methodology Public Comment Period Announced

The Department of Energy [solicited](#) public comment August 5 on March 2010 building energy codes [methodology](#). The methodology has been implemented in several states, and the agency is

considering applying it to local, state, and federal codes. Comments are due September 5.

2012 Wind Capacity Report Released

In its August 6 [2012 Wind Technologies Market Report](#), the Department of Energy reported that the production capacity of wind energy grew by more than 20 gigawatts in 2012 to a total of 125 GW. Wind capacity is down 59 percent since 2009; the report cited efforts by Federal Energy Regulatory Commission and grid operators to discourage speculative projects.

Third LNG Export Terminal Approved

The Department of Energy [approved](#) a third liquefied natural gas terminal to export LNG to non-free trade agreement countries on August 7. The Lake Charles Exports LLC facility in Louisiana has the capacity to export 2 billion cubic feet of natural gas a day for 20 years.

Computer Servers Public Comment Period Extended

The Office of Energy Efficiency and Renewable Energy [extended](#) on August 12 a public comment period for a proposed determination of computer servers as a covered consumer product. The determination was [proposed](#) on July 12; the comment period was extended to September 12.

DEPARTMENT OF INTERIOR

BLM EIS on Fracking in CA

The Bureau of Land Management [announced](#) August 5 its intent to conduct an environmental impact statement on oil and gas leasing and development on federal lands in California. The bureau will collect public comments until October 4 on the statement and a potential amendment to resource management plan to regulate fracking on federal lands.

Jewell Visits ND

Secretary of the Interior Sally Jewell visited North Dakota August 6 and 7, where she toured drilling operations and met with a federal interagency working group focused on Bakken oil development. The secretary advocated for more research on methane emissions. Senators Heidi Heitkamp (D-ND) and John Hoeven (R-ND) urged the Department to expedite federal land leasing for oil and gas development.

ENVIRONMENTAL PROTECTION AGENCY

Rise in Potential Renewable Projects on Contaminated Land

The [RE-Powering Mapper](#), an Environmental Protection Agency interactive tool to show renewable energy potential on contaminated sites, was updated August 6, showing a rise in potential projects from 24,000 to 66,000. The agency and the National Renewable Energy Lab looked for contaminated land, landfills, and mines for capacity to sustain biomass, geothermal, solar, and wind projects. The initiative began identifying sites in 2008.

2013 RFS Requirements Finalized

The Environmental Protection Agency [finalized](#) the 2013 Renewable Fuel Standard volume requirements on August 6, mandating 16.55 billion gallons of biofuels be blended into gasoline by June 30, 2014. The 2012 requirement was 15.2 billion gallons. The cellulosic requirement dropped from the proposed level of 14 million gallons to 6 million gallons. 1.28 billion gallons of biodiesel and 2.75 billion gallons of advanced biofuels must be blended by the end of the year. A fact sheet on the standards can be found [here](#).

Biodiesel Requirement Reconsideration Petitions Denied

The Environmental Protection Agency on August 6 denied two November 2012 petitions to reconsider its 2013 biodiesel Renewable Fuel Standard requirements. The American Fuel and Petrochemical Manufacturers and the American Petroleum Institute said the increased transportation fuel prices and examples of fraud in the Renewable Identification Number market were too costly, but the agency responded that the two petitions did not meet the reconsideration criteria.

Coalbed Methane Effluent Guidelines Halted

In an August 7 [notice of availability](#), the Environmental Protection Agency released the Preliminary 2012 Effluent Guidelines Program Plan and the 2011 Annual Effluent Guidelines Review Report. In the notice, the agency announced that it plans to stop developing its effluent guidelines for coalbed methane extraction. Public comments on the preliminary 2012 plan and the 2011 review report will be accepted through October 7.

EPA CFO Opposes House Appropriations Bill

An August 8 [blog post](#) by Environmental Protection Agency Acting Chief Financial Officer Maryann Froehlich expressed opposition to the current version of the House Appropriations Committee's FY14 Interior and Environment Appropriations bill. She commented that the bill, which allocates 34 percent less than pre-sequester enacted levels to the agency, will result in increased asthma rates in children and the death of fish due to excess nutrients in lakes and rivers.

New Coal Ash Groundwater Contamination Sites Identified

The Environmental Protection Agency confirmed 18 new coal ash groundwater contamination sites, according to an August 8 [report](#) by Earthjustice and the Environmental Integrity Project. The cases have high concentrations of pollutants that cause public health concerns; the sites are located in IN, MI, MT, NC, NV, NY, PA, SC, TN, TX, VA WI, and WV. The total number of sites identified has risen to 38.

NUCLEAR REGULATORY COMMISSION

Nuclear Waste Proposed Rule, EIS Imminent

The Nuclear Regulatory Commission [voted](#) August 5 to publish a proposed rule and generic environmental impact statement related to nuclear waste storage. The commissioners pushed to remove language related to a timeline for a nuclear waste repository. The two documents are expected to be released in September.

GA Agreement State Program on Probation

Georgia was placed on [probation](#) by the Nuclear Regulatory Commission on August 8 for safety and security deficiencies in its Agreement State program. Under the program, the state was able to license and regulate nuclear material. The commission said the agreement, which was reviewed and was given recommendations in October, needs improvement. The agreement will be reviewed again in January.

Region IV Administrator Changes

Nuclear Regulatory Commission Region IV Administrator Arthur Howell announced his retirement August 9. Howell had been serving since March when former Administrator Elmo Collins left. Steven Reynolds will serve as Acting Administrator until Marc Dapas assumes the role, at which point he will become Deputy Administrator. Headquartered in Texas, Region IV oversees AK, AZ, AR, CA, CO, HI, ID, KS, LA, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WY, and U.S. Pacific territories.

INTERNATIONAL

UNEP Sustainable Development Goals Discussion Draft

[Embedding the Environment in Sustainable Development Goals](#), a U.N. Environment Program discussion draft, was proposed August 7 to promote environmental concerns in the formation of sustainable development goals. In September, the General Assembly will consider a working group proposal on the goals; sustainable development goals are succeeding the millennium development goals that will expire in 2015.

STATES

CA Climate Chang Report Tracks Impacts

The California Environmental Protection Agency announced in its August 8 report [Indicators of Climate Change in California](#) that rising sea levels and wildfires are easily identifiable consequences of climate change in the state. 36 indicators were tracked in report, including average air temperature and greenhouse gas emissions.

PA Fracking Air Quality Permits Updated

The Pennsylvania Department of Environmental Protection released August 8 [revisions](#) to its air quality permit criteria for hydraulic fracturing wells. The changes allow the agency to grant exemptions to operators who use practices that are stronger than federal requirements. Other revisions include strengthened leak detection, leak repair, and emissions control requirements.

MISCELLANEOUS

Report on Investors, Climate Change Released

[Global Investment Survey on Climate Change](#), the third annual report by the Global Investor Coalition on Climate Change, found August 5 that investors view climate change as a material risk and are increasingly considering it when investing. The report advocated for additional public policies to improve clarity and certainty for investors.

Conservation, Public Land Drilling Report Released

[*A Blueprint for Balance: Protecting America's Public Lands for Future Generations Amid the Energy Boom*](#), an August 7 report by the Center for American Progress and four conservation groups, advocated for oil and gas leasing reforms, increased charges to drill on federal lands, and new national monuments and refuges. The group charged that royalties from drilling on public lands should support conservation efforts.

Cleaning Industry Sustainability Report Released

The American Cleaning Institute, in its August 8 [*Sustainability Report 2013*](#), announced that the cleaning product industry has reduced solid waste generation by 17 percent, energy use by 9 percent, and and greenhouse gas emissions by 7 percent over the past three years. Water consumption levels have remained stable; the report encouraged exploration into new ways to improve water efficiency.

LCV Climate Change Ad Campaign Launched

The League of Conservation Voters began on August 12 a \$2 million climate change television advertisement campaign. The campaign is designed to highlight the voting record of several members of Congress. *Jean Cornell also contributed to this article.*

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National Law Review, Volume III, Number 226

Source URL: <https://natlawreview.com/article/energy-and-environment-law-update-august-12-2013>