To: Flattery, Priscilla[Flattery.Priscilla@epa.gov]
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Latest Developments

Interior Department Authorizes Offshore Wind Project on West Coast

Posted February 05, 2014, 3:52 P.M. ET

The Interior Department announced Feb. 5 it had given the "green light" to a Seattle-based company to move forward with plans to build what could be the nation's first offshore wind project off the West Coast.

The department's "determination of no competitive interest" allows Principle Power Inc. to formally submit plans to site five 6-megawatt floating wind turbines offshore of Oregon's Coos Bay, according to the Bureau of Ocean Energy Management.

If constructed, the project could be the first in the U.S. to use a floating structure to support offshore wind development in the Outer Continental Shelf, the bureau said.

Water Safe to Drink, Governor Tells West Virginians

Posted February 05, 2014, 3:52 P.M. ET

West Virginia residents affected by the recent Elk River chemical spill should trust federal regulators' assurances that their drinking water is safe, according to Gov. Earl Ray Tomblin (D).

Under the Safe Drinking Water Act, Environmental Protection Agency experts have examined the distribution system and determined that the levels of 4-methylcyclohexane methanol in tap water is at safe or even undetectable levels, said EPA Region 3 Administrator Shawn M. Garvin, who joined Tomblin at a news briefing Feb. 5 in Charleston, W.Va.

Ongoing anecdotal reports of illness from tap water following the Jan. 9 spill, which prompted a weeklong "do not use" order for 300,000 people in eight counties, cannot be definitely linked to MCHM, said state Center for Environmental Health acting director Tanja Popovic, adding that the 1,000 parts-per-million limit established by her agency provides "a substantial blanket of safety."

NOTE: The announcement follows hearings in the House and Senate Feb. 4, where lawmakers said the spill illustrates the need for updating the Toxic Substances Control Act.

NOTE: Sens. Joe Manchin (D-W.Va.), John D. Rockefeller (D-W.Va.) and Barbara Boxer (D-Calif.) on Jan. 27 introduced a bill (S. 1961) that would set minimum construction standards and other requirements for chemical storage sites located near sources of drinking water, among other things.

10th Circuit Defends Decision Not to Reduce Renewable Fuels Volumes in 2013 Rule

Posted February 05, 2014, 3:32 P.M. ET

The Environmental Protection Agency defended its decision not to reduce the overall renewable fuel blending requirements for 2013 as a justifiable use of the agency's discretion under the Clean Air Act (Monroe Energy LLC v. EPA, D.C. Cir., No. 13-1265, 2/4/14).

The EPA told the U.S. Court of Appeals for the District of Columbia Circuit in a Feb. 4 brief that petroleum refiners and importers had sufficient capacity to meet the statutory requirement to blend 16.55 billion gallons of renewable fuels into the nation's fuel supply in 2013 even after the agency greatly reduced the cellulosic ethanol mandate, which in turn required a larger proportion of the total to be met by non-cellulosic ethanol.

The EPA said the Clean Air Act gives it "broad discretion" to determine when it will use its waiver authority to reduce the annual blending requirement. Reducing the annual blending requirement unnecessarily would go against Congress's intent to promote the use of renewable fuels, the EPA said.

The EPA in its 2013 renewable fuel standard rule reduced the cellulosic ethanol blending requirement from the 1 billion gallons set out in the Energy Independence and Security Act of 2007 (Pub. L. No. 110-140) to 6 million gallons. However, the agency chose not to reduce the overall requirement to blend 16.55 billion gallons of renewable fuels into the fuel supply (78 Fed Reg. 49,794).

House Considers Water Storage Bills To Address Red Tape, Pushback Concerns

Posted February 05, 2014, 2:28 P.M. ET

Bills to cut red tape and allow more flexibility on funding for water reservoir construction received a hearing Feb. 5 by the House Natural Resources Subcommittee on Water and Power.

The Water Supply Permitting Coordination Act (H.R. 3980), proposed by Rep. Tom McClintock (R-Calif.), would force federal permitting agencies to work closer together to get project planning done expeditiously.

The Accelerated Revenue, Repayment and Surface Water Storage Enhancement Act (H.R. 3981), proposed by Rep. Doc Hastings (R-Wash.), would allow states and communities to repay federal loans faster on reservoir projects. It also would direct such payments into a fund for assistance to other water storage projects.

Democrats on the subcommittee offered cautionary notes but, like Republicans, spoke with uncomfortable awareness of the current drought conditions in California and some other states that serve as a reminder of the value of building water storage.

Rep. Grace Napolitano (D-Calif.) encouraged consideration, as well, of desalination, conservation, recycling and underground storage (aquifers) to address water issues.

Republicans Slam EPA Overregulation of Air, Water, Fracking and Power Plants

Posted February 05, 2014, 2:18 P.M. ET

Witnesses before a House Science, Space and Technology Committee Feb. 5 cited regulations on the waters of the United States, greenhouse gas emissions from power plants, fracking and cross-state air pollution as examples of regulatory overreach by the Environmental Protection Agency.

Bryan Shaw, Chairman of Texas Commission on Environmental Quality, said carbon capture and sequestration technologies, the basis for EPA's emissions limits for new power plants, had not been adequately demonstrated.

David Porter, Commissioner of the Railroad Commission of Texas, said the EPA showed "severe incompetency and blatant disregard for sound science" on how it approached fracking regulations in Texas.

White House Threatens Veto of House California Drought Relief Bill

Posted February 05, 2014, 2:13 P.M. ET

In a [illegible], the White House said it would veto the Sacramento-San Joaquin Valley Emergency Water Delivery Act (H.R. 3964), which is scheduled for a vote in the House today.

The bill "would not alleviate the effects of California's current drought and would disrupt decades of work that supports building consensus, solutions, and settlements that equitably address some of California's most complex water challenges," the statement said. "The urgency and seriousness of the situation requires a balanced approach that promotes water reliability and ecosystem restoration."

Among other things, H.R. 3964 would reform the Central Valley Project Improvement Act and the San Joaquin River Restoration Settlement Act.

Sens. Barbara Boxer (D-Calif.) and Dianne Feinstein (D-Calif.) strongly oppose the House bill and plan to introduce their own bill to address the drought crisis.

The statement of administration policy is available at [illegible].

[illegible]

Posted February 05, 2014, 1:51 P.M. ET

House Minority Whip Steny Hoyer (D-Md.) and 40 other congressmen are urging the Environmental Protection Agency to model its efforts to cap and reduce carbon dioxide standards from existing power plants on the success of a regional market-based approach put in place by northeastern states.

In a letter dated Jan. 31, the lawmakers pressed EPA to ensure that its power plant rules, which are to be finalized by the end of President Barack Obama's presidency, provide flexibility for such regional emissions trading approaches.

The Regional Greenhouse Gas Initiative—which covers Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island and Vermont—is projected by 2020 to cut carbon dioxide emitted by power plants in half from 2005 levels.

[illegible]

Posted February 05, 2014, 1:46 P.M. ET

Anadarko Petroleum Corp., Encana Corp., Pioneer Natural Resources Co. and Apache Corp. have the highest exposure to water sourcing risk among shale energy producers in the United States and western Canada, according to a new [illegible] from Ceres.

Most of the hydraulic fracturing wells being developed by these companies are in regions of high or extremely high water stress, the report said.

The report pointed out some "pockets of success" in mitigating water sourcing risks, such as Apache's commitment to recycle 100 percent of its produced water in the Permian Basin. But overall, "water management best practices are lagging," the report said.

It urged shale energy companies to mitigate water sourcing risks through greater disclosure, improvements in water use practices and engagement with communities and regulators on local water challenges.

[illegible]

Posted February 05, 2014, 1:40 P.M. ET

The Environmental Protection Agency's Office of Pesticide Programs released a [illegible] outlining an agreement with the U.S. Fish and Wildlife Service to promote the conservation of migratory bird populations.

The draft memorandum of understanding, posted online Feb. 5, outlines plans to enhance collaboration between the EPA's pesticide office and the FWS to better protect migratory birds. Under the agreement, the OPP and the FWS would work together to identify where legal pesticide uses are having, or are likely to have, negative effects on migratory bird populations and their habitats.

The draft document also calls for the FWS to provide the EPA with information on the economic, societal and environmental

benefits of migratory birds for consideration in decisions on pesticide registrations. The EPA's pesticide office also agreed to seek input from FWS on pesticide product label language intended to mitigate risk to migratory birds, encourage pesticide users to employ integrated pest management techniques that reduce exposure of pesticides in the environment and identify conservation measures that minimize stress to migratory bird populations associated with pesticide use.

A 2001 executive order (Exec. Order No. 13,186) requires every federal agency that takes action likely to have measurable adverse effects on migratory bird populations to enter into a memorandum of understanding with FWS to promote the conservation of migratory birds.

The EPA will accept comments on the draft document through March 7. Comments may be filed at [illegible] under Docket No. EPA-HQ-OPP-2013-0744.

The draft memorandum of understanding between the OPP and the FWS is available at [illegible]

[illegible]

Posted February 05, 2014, 11:42 A.M. ET

States could opt out of the Environmental Protection Agency's proposed caps on carbon dioxide emissions from coal-fired and other power plants under a bill (S. 1988) introduced yesterday by Sen. James Inhofe (R-Okla.)

In introducing the Electricity Reliability and Affordability Act of 2014, Inhofe said record low temperatures in some regions of the U.S. in recent weeks are a reminder of coal's role in generating electricity. Coal is used to generate about 37 percent of U.S. electricity, according to the Energy Information Administration.

NOTE: The House Energy and Commerce Subcommittee on Energy and Power, of which Rep. Ed Whitfield (R-Ky.) is chairman, approved a similar bill that would curtail the EPA's authority to regulate greenhouse gas emissions from new and existing power plants on Jan. 28.

NOTE: Whitfield told Bloomberg BNA Jan. 29 that the House will vote by the end of February on that bill.

[illegible]

Posted February 05, 2014, 11:34 A.M. ET

The Pipeline and Hazardous Materials Safety Administration is proposing to fine three oil companies over the improper classification of crude oil shipped by rail from the Bakken Shale region.

The agency, in a Feb. 4 statement, said it issued notices of probable violation to Hess Corp., Whiting Oil and Gas Corp. and Marathon Oil Co. for alleged violations of federal hazardous materials transport regulations. In total, PHMSA is proposing $93,000 in civil penalties.

The enforcement action is the result of Operation Classification, a 2013 joint investigation by PHMSA and the Federal Railroad Administration into the transport of Bakken crude oil by rail. PHMSA inspectors collected and analyzed samples from August through November 2013 to determine whether the crude oil was properly classified and assigned to the correct packing group.

An analysis found that 11 of the 18 samples taken from cargo tanks delivering crude oil to rail loading facilities were assigned to the incorrect packing group, according to PHMSA—in each case rated as less hazardous than it should have been. The agency said shipping crude oil without proper classification could result in the material being shipped in an inadequate container or cause emergency responders to follow improper protocols when responding to an incident involving a hazardous materials spill.

Operation Classification is one of several efforts under way at the Transportation Department to address rail safety following a series of accidents involving crude oil trains, including a July 2013 incident in Lac-Mégantic, Quebec, that resulted in 47 fatalities and a Dec. 30 derailment in Casselton, N.D.

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