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From: Bloomberg BNA
Sent: Tue 8/8/2017 8:30:42 PM
Subject: Aug. 8 -- Daily Environment Report - Afternoon Briefing



Daily Environment Report

Afternoon Briefing - Your Preview of Today's News

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Water Rule Analysis Broader Than Critics Contend, EPA Says

Posted August 08, 2017, 9:16 A.M. ET

By [Amena H. Saiyid](#)

The EPA's economic analysis of the Obama-era Clean Water Rule relied on permitting data from years after the economic recession ended, the agency said countering accusations its analysis was limited to when the downturn occurred.

The Environmental Protection Agency study of the 2015 rule's costs and benefits was more comprehensive than critics claimed, Al McGartland, head of the agency's National Center for Environmental Economics, told Bloomberg BNA in an email.

Critics contended the EPA relied on permitting data from two years during the economic recession, when construction and manufacturing would have been at their lowest, to inform its study of costs and benefits of the rule, which determines the reach of federal water permitting requirements. The EPA used that [same data](#) when it issued the rule in 2015 and again this year as the administration proposed to roll it back (RIN:2040-AF74).

McGartland acknowledged that the EPA did use the permitting data from fiscal years 2009 and 2010 when it initially proposed the rule, also known as waters of the U.S. rule, or WOTUS. But the agency relied on five years of data for the economic analysis of the final rule. The updated analysis for the 2015 final rule came in response to criticism from the Waters Advocacy Coalition, an industry-led coalition of manufacturers, farmers, miners, road builders, and businesses that had hired David Sunding, of the University of California, Berkeley, to critique the analysis of the proposal.

"In fact, to ensure EPA did not understate permit activity, EPA looked at the range of permitting activity from 2009 through 2014 and used the maximum number of permits in any given year," McGartland said.

Specifically, the analysis calculated the overall impact by using the maximum number of individual permits to dredge and fill wetlands and streams that the U.S. Army Corps of Engineers issued in

fiscal year 2009 and the maximum number of general permits issued in 2013, McGartland added.

Analysis Still Said to Lack Rigor

Despite the EPA's defense, skeptics of the agencies' analysis remained unpersuaded.

The use of the recession-era data as an economic baseline was one of a number of problems with the original study and the more recent analysis, William Yeatman, a senior fellow with the Competitive Enterprise Institute, said.

"It doesn't change the fact that both of these studies were driven by assumptions to control the results," Yeatman told Bloomberg BNA Aug. 7.

James Goodwin, a senior fellow with the Center for Progressive Reform, said the Trump and Obama administrations "cherry picked" assumptions to reach their respective conclusions. The "cost benefit analyses are nothing more than administration tools to justify their actions," he said.

Goodwin noted that permits are a lagging indicator of economic activity because the corps doesn't issue the permits right when the applicants seek them.

Yeatman, who was opposed to the 2015 rulemaking and supports the Trump administration's proposal to withdraw the rule, reiterated that the EPA and the corps are missing an opportunity to do this analysis properly.

At the end of the day, "It's all politics," Yeatman said.

Commonwealth Bank of Australia Shareholders Sue Over Climate Risk

Posted August 08, 2017, 03:55 P.M. ET

By [Murray Griffin](#) and [Chuck McCutcheon](#)

An Aug. 8 lawsuit in Australia against one of the country's largest banks alleging it failed to adequately disclose climate change risks is being seen as a wake-up call for other global financial institutions.

The [action](#) against Commonwealth Bank of Australia was filed in Federal Court by Environmental Justice Australia on behalf of Guy and Kim Abrahams, who have held shares in the bank for years. The couple says the bank knew—or should have known—that climate change risks might have a material or major impact on the bank's operations, financial position, and prospects. They allege the bank did not report on these risks or its management of them in its 2016 annual report.

"There's a hope this kind of suit will raise a red flag to the larger banking sector to look at the merits and take action before they have litigation facing them as well," Lauren Compere, managing director of Boston Common Asset Management, a firm that focuses on socially responsible investing, told Bloomberg BNA.

Financial sector shareholders have a reasonable expectation to know of the growing risks that climate change poses, Daniel Kreeger, director of the Association of Climate Change Officers, told Bloomberg BNA.

“There has to be information [to investors] that’s somewhere between ‘there’s nothing happening’ and ‘the sky is falling,’” said Kreeger, whose organization works with public and private employees who focus on climate issues. The institution “needs to be responsible and to have identified meaningful and tangible and plausible risks—to not just articulate them but address them strategically and convey they are addressing them strategically. That will make investors feel a lot better than pretending that nothing’s happening.”

Kreeger said he was unaware of any similar litigation involving another bank, though he noted similar shareholder pressures have arisen regarding climate change. In May, investors holding 62 percent of Exxon Mobil’s shares voted at the company’s annual meeting in favor of greater disclosure around the effects of global policies that seek to limit global warming to 2 degrees Celsius (3.6 degrees Fahrenheit).

‘Deeply Concerned’ About Climate Risk

In their lawsuit, the Commonwealth Bank shareholders argued that the bank’s omission of climate change information constituted a breach of the Corporations Act of 2001, which requires companies to give a true and fair view of their financial position and performance. They also said the bank breached a provision of the Corporations Act requiring companies to provide investors with information allowing them to make informed assessments.

“We are deeply concerned about the serious risks that climate change poses to the environment and society,” Guy Abrahams said in a statement. “The bank should tell investors about the risks climate change will have on its business.”

Commonwealth Bank rejected the lawsuit’s allegations, saying in a statement it takes its statutory reporting obligations “very seriously.”

“Commonwealth Bank understands that climate change is a topic of public and shareholder interest and we are committed to playing our part in limiting climate change to well below 2 degrees in line with the Paris Agreement and supporting the responsible global transition to net zero emissions by 2050,” the bank’s statement said.

Commonwealth ‘Not the Worst’

Compere said her firm did outreach to 62 banks globally in 2014 in connection with research into whether banks had yet incorporated climate considerations into their risk management practices or developed long-term climate strategies. She said Commonwealth Bank was found to have taken the issue more seriously than some other large banks.

“They were not the worst,” she said.

The firm is now doing followup research with those banks in the hope of “tying up the conversation and the dialogue,” she told Bloomberg BNA.

Barrier Reef Coal Export Route

Also in their suit, the Abrahamses refer to the prospect that the bank might fund a large proposed coal mine in Queensland state that would export coal through the Great Barrier Reef. The Adani Group’s Carmichael coal mine has faced repeated questions about potential climate risks from environmental activists as well as politicians.

The suit says the prospect of the bank financing the mine was “a matter of substantial controversy and concern” during the 2015-2016 financial year, and that the bank should have known it constituted a risk to the bank. Yet, it says, the annual report did not mention the risks that Carmichael presents to the climate.

The suit seeks an order from the Federal Court of Australia that the bank breached the Corporations Act. It seeks an injunction restraining the bank from “continuing to fail to report” on climate risks.

Trump’s UN Diplomat Pledges No Interference in Climate Study

Posted August 08, 2017, 03:15 P.M. ET

By [Dean Scott](#)

The Trump administration won’t interfere in a broad [climate study](#) focusing on how rising sea level, increasing temperatures, and other climate impacts are already affecting the U.S., the president’s United Nations ambassador pledged today.

“I haven’t seen the report, but I don’t see any reason why they wouldn’t” back the study, Nikki Haley, U.S. Ambassador to the U.N., said on [NBC’s “Today” show](#). Haley pushed back against reports suggesting scientists are worried Trump will torpedo the draft report—known as the Fourth National Climate Assessment and slated for completion in late 2018—given Trump’s June withdrawal from the Paris climate pact.

“First of all ... just because we pulled out of the Paris accord doesn’t mean we don’t believe in climate protection,” Haley said.

The report, compiled by the U.S. Global Change Research Program, is required under a 1990 law to be provided to Congress. One draft portion of the report, known as the climate science special report, said even “stronger evidence” has emerged of “continuing, rapid, human-caused warming of the global atmosphere and ocean” since the last report in 2014.

Sessions Wants Data on Settlement Payments to Third Parties

Posted August 08, 2017, 03:50 P.M. ET

By [Renee Schoof](#)

Attorney General Jeff Sessions is calling for a list of all criminal and civil settlements reached by the EPA and other agencies in the past 10 years that include payments to third parties in lawsuits after he banned the practice in June.

The latest directive from Sessions, in a July 28 [memo](#), gives Justice Department office heads and U.S. attorneys until Aug. 31 to provide the information. The memo says the purpose of the review is “to assist the Department in implementing the new policy,” which bars payments to nongovernmental third-party groups in settlement agreements.

Among other things, it asks them to identify any such payments that “are still outstanding or have not been fully satisfied.”

The Justice Department in July said Harley-Davidson Inc. would not have to pay \$3 million to an

American Lung Association effort to replace conventional wood stoves with cleaner-burning ones to reduce air pollution. It was part of a \$15 million settlement the motorcycle maker reached with the Justice Department in 2016 over accusations that Harley was selling tuners that allowed motorcycles to be tweaked to emit more pollution than is certified by the Environmental Protection Agency.

The case raised interest because Harley got to keep the \$3 million.

Harley said the tuners were meant for off-road and closed-course competition and that it did nothing wrong by selling them. The settlement had not yet been approved by a judge.

The ban on third-party payments also raised questions about how it would affect the EPA's Supplemental Environmental Projects (SEPs) policy. Companies involved in settlements can voluntarily agree to undertake environmentally beneficial projects in exchange for a reduced penalty.

The Justice Department told Bloomberg BNA that the new policy does not address settlements that are consistent with the EPA's 2015 SEP Policy, which already prohibits third-party payments. The policy says there must be a relationship between the violation and the health or environmental benefits the project will provide. It also specifies types of projects that are not acceptable as SEPs, including cash donations to community groups, environmental organizations, or other third parties, and projects by individuals or groups who are not a party to the settlement or hired by the defendant in a settlement case.

House Oversight Committee Advances Cancer Institute Probe

Posted August 08, 2017, 04:21 P.M. ET

By [Tiffany Stecker](#)

House Oversight and Government Reform Chairman Trey Gowdy (R-S.C.) is pushing further an investigation into U.S. funding of an international institution criticized for labeling a widely used herbicide as carcinogenic.

Gowdy sent a [letter](#) to Francis Collins, director of the National Institutes of Health, Aug. 8 asking for additional documents for an ongoing probe into the International Agency for Research on Cancer. The Lyon, France-based agency in 2015 found that glyphosate, the main ingredient in Monsanto Co.'s Roundup, was a "probable" carcinogen.

Gowdy wants NIH to provide documents relating to recent news that retired National Cancer Institute scientist Aaron Blair withheld study results that could have changed IARC's conclusion on glyphosate. Blair, who oversaw a large population study on farmers and their spouses exposed to pesticides, did not hand over to IARC the latest data in the study because it had not been published in a scientific peer-reviewed journal. That data could have influenced the final report from IARC, Blair said in a court deposition.

The National Institutes of Health did not respond to a request for comment. Sen. Jim Inhofe (R-Okla.) sent a similar [letter](#) last week.

EPA's Coolant Chemicals Ban Struck Down by Court

Posted August 08, 2017, 11:22 A.M. ET

By David Schultz

The EPA's ban on certain refrigerant chemicals that are potent greenhouse gasses overstepped its legal authority, a federal appeals court said in a victory for Arkema, Mexichem Fluor Inc., and other companies that manufacture them.

A three judge panel in the U.S. Court of Appeals for the D.C. Circuit ruled that the agency overstepped its authority when it forbade the use of hydrofluorocarbons, or HFCs, which can trap heat in the atmosphere thousands of times more efficiently than an equivalent amount of carbon dioxide. HFCs were originally created as a substitute for other refrigerants that harmed the ozone layer, and the Environmental Protection Agency tried to use the same ozone depletion law that spurred the chemicals' introduction to also remove HFCs from the marketplace.

However, in a 2-1 decision issued today, the judges ruled that the law only allows the EPA to ban ozone-harming chemicals, not chemicals that cause other environmental problems.

The decision dealt a blow to Honeywell International and Chemours, which have developed chemicals meant to replace HFCs.

Groundwater Cleanup Could Overwhelm Pentagon Budget

Posted August 08, 2017, 9:57 A.M. ET

By David Schultz

The \$2 billion the Pentagon may need to clean up contaminated groundwater near military bases could blow a hole in the Defense Department's remediation budget, an official said.

That estimate could grow because the Defense Department is only 80 percent of the way through testing the groundwater at its bases for toxic perfluorinated chemicals, which can collect in the body and biodegrade very slowly, Maureen Sullivan, the Pentagon's top official overseeing environmental issues on its installations, said at an Aug. 8 conference of scientists, engineers and others who work on groundwater issues.

The Pentagon currently has a total of \$25 billion in cleanup liability across all other environmental contaminants, including munitions. But that doesn't include cleaning up perfluorinated chemicals, which were used as fire suppressors.

Lenny Siegel, executive director of the Center for Public Environmental Oversight, said this \$2 billion figure may actually be too low, especially if the military can't figure out how to clean up the groundwater at its source and must instead filter water at wells or at taps.

Spending more than \$2 billion is "within the realm of possibility," Siegel, whose group focuses on contamination issues at military bases, told Bloomberg BNA. "There are some significant unknowns."

Funding Not Keeping Up

The military will soon have to make difficult choices about which cleanup projects to prioritize,

Sullivan told Bloomberg BNA. For the coming fiscal year, the White House asked Congress to cut the Pentagon's environmental restoration budget across its services by more than \$53 million, a 5 percent reduction from its current levels.

A funding bill that passed the House last month restored most of these cuts, however. The bill was amended on the House floor to give \$30 million to the Navy and Air Force specifically for cleaning up perfluorinated chemicals.

But keeping restoration funding flat won't be able to keep up with the growing list of contaminants that the military will need to address, as scientists learn more about the health effects of the chemicals it uses, Sullivan said.

She said the Pentagon doesn't even know the full extent to which perfluorinated chemicals have seeped into aquifers because it is only 80 percent of the way through testing the drinking water at its bases.

Tax Breaks Powered Wind Energy Growth in 2016

Posted August 08, 2017, 02:06 P.M. ET

By Rebecca Kern

Wind energy installations in the U.S. continued to grow in 2016 thanks in part to the production tax credit that went into effect in late 2015, the Energy Department said in reports out today.

"A combination of federal subsidies, state mandates, and technological advancements continue to help drive new wind capacity additions," Daniel Simmons, acting assistant secretary at the Energy Department's Office of Energy Efficiency and Renewable Energy, said in a Aug. 8 statement.

The Energy Department's 2016 Wind Technologies Market Report found the U.S. wind industry added 8,203 megawatts of new wind power capacity, or 27 percent of total capacity additions, in 2016.

This continues the growth of new installations that included 8,598 megawatts of new wind capacity in 2015, which made up even more of total U.S. capacity additions—40 percent—in that year.

Congress passed the production tax credit in December 2015, encouraging new wind installation through phased-down tax credits that last until 2019. The tax credits have helped spur new wind installations, with 102,000 wind energy jobs in 2016, up 32 percent from 2015, according to the report.

The report notes, however, that forecasts from 2021-2025 show a downturn in expected new wind energy capacity installations as the production tax credit phases out.

The Energy Department also released offshore wind and distributed wind market reports documenting growth in these areas as well.

Keystone XL's Path Up for Grabs as Nebraska Commission Weighs In

Posted August 08, 2017, 11:40 A.M. ET

By Andrew Harris

The future of TransCanada Corp.'s Keystone XL pipeline could hinge on whether a Nebraska commission believes the project is in the public's interest or is a private land grab as property owners claim.

More than 90 percent of TransCanada's preferred 270-mile route through the state would cut across privately owned land, as would an alternate route, company project manager Paul Fuhrer testified Aug. 7 during the first day of a hearing in Lincoln, Neb.

To gain approval for one of its proposed paths, Keystone lawyers will need to convince the Public Service Commission--made up of four Republicans and one Democrat--and overcome vehement opposition from dozens of landowners, environmental conservation groups, and Native American tribes.

The elected commission, created under the state's constitution, began hearing testimony in what is scheduled to be a week-long hearing. Much of the Aug. 7 hearing was dominated by testimony from company executives on the pipeline's maintenance details, including responsibility for cleanup, restoration, and removal once the conduit reaches its life expectancy.

A ruling from the panel is due no later than Nov. 23. Whether the pipeline gets built, however, may ultimately rest upon what the state's seven-member Supreme Court decides, as the loser is likely to appeal.

"The pipeline is not in the public interest," activist Jane Kleeb, president of the environmental advocacy group Bold Alliance who was elected last year as the state's Democratic Party chair, said in an interview prior to the Aug. 7 hearing. "This will be a private, foreign corporation that would be using eminent domain for private gain."

\$8 Billion Project

Keystone XL has been in the planning stages for nearly 10 years. The conduit would carry heavy crude from Canada's oil sands region in Alberta to a terminal more than 1,100 miles away in Steele City, Neb., where it would connect with an already existing network leading to Gulf Coast refineries.

Labor unions are backing the \$8 billion project for its promise of jobs.

TransCanada and President Donald Trump have promoted the project as one that will provide employment and boost the state's economy. Nebraska will benefit from as many as 4,500 jobs during the two-year construction period, and \$12 million in property tax revenues, according to the Calgary-based company.

Environmental groups sued over its original path through the state because it would have traversed Nebraska's environmentally sensitive Sand Hills region. That route was soon abandoned for one charted by the state's now-former governor, Dave Heineman, and TransCanada, provoking lawsuits contending only the commission could approve its path.

While the pipeline company ultimately agreed to apply to the Public Service Commission, the Obama administration rejected TransCanada's request for permission to cross the U.S.-Canada border, effectively killing the project until Trump revived it earlier this year.

Despite the delays, during which crude oil prices have tumbled, TransCanada maintains that the pipeline still has commercial support.

Eminent Domain

Some landowners who fought the previous pipeline battle have returned for this one. The commission allowed 94 landowners to intervene in the hearing without limitations, ruling in March that they “have real property interests that will be directly impacted” by the pipeline’s route.

Kleeb, alongside groups such as the Sierra Club and 350.org, have been working with landowners, highlighting the issue of eminent domain. They argue that it’s unnecessary and unfair to take private property for the pipeline using eminent domain, particularly given certain liability provisions the company is putting into landowner easements. TransCanada says 91 percent of landowners in the state have agreed to allow the project on their land.

David Domina, a lawyer for landowners, questioned TransCanada executive Tony Palmer during Monday’s hearing about the pipeline’s complex corporate ownership structure. Palmer said he’s the president of an intermediate entity called TransCanada Keystone General Partner LLC, which holds less than 1 percent of the company seeking the permit. Domina also questioned Palmer on who bears responsibility for maintenance or removal should the conduit become obsolete.

TransCanada still hasn’t made a final decision on whether to push ahead with the Keystone XL project. Domina asked Palmer whether that meant the company would use the commission’s ruling to “make better investment decisions?”

“No sir,” Palmer replied. Asked if selling the route was an option if the commission approves the application but TransCanada scraps the project, he said, “I don’t think that I could fulsomely respond with a yes or no answer.”

—With assistance from Meenal Vamburkar and Kevin Orland.

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Nuclear Regulator Moves to Restart Yucca Mountain Review

Posted August 08, 2017, 02:30 P.M. ET

By [Jennifer A. Dlouhy](#)

The Nuclear Regulatory Commission ordered staff to gather information tied to a review of the Energy Department’s proposal to build a radioactive waste repository at Nevada’s Yucca Mountain.

NRC [directed staff](#) to gather input and share information with the public regarding the possible reconstitution of a database of nearly 4 million documents tied to the Yucca Mountain application. NRC allotted \$110,000 from the Nuclear Waste Fund for the work.

Chairman Kristine Svinicki and Commissioner Stephen Burns voted in favor, while Commissioner Jeff Baran voted against. Baran said in [written comments](#) that information gathering is based on a potentially faulty assumption that Congress will appropriate funds for the Yucca Mountain site.

“We should not presume that Congress will take this step in fiscal year 2018,” Baran said.

Svinicki said the activities would develop the agency's readiness in case Congress appropriates money for Yucca in fiscal 2018.

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Warren Buffett Likes Solar, But Not the Price Tag

Posted August 08, 2017, 9:23 A.M. ET

By [Brian Eckhouse](#) and [Noah Buhayar](#)

Warren Buffett has called global warming a “[major problem](#)” and put his company's money where his mouth is, spending billions to develop solar and wind power, yet he's no hero to some renewable energy proponents.

Their beef: They say the utility arm of Berkshire Hathaway Inc., his conglomerate, has been trying to undermine an almost 40-year-old law intended in part to promote the growth of cleaner energy. Berkshire, they say, is effectively stifling solar projects to protect utilities it owns, such as PacifiCorp, based in Portland, Ore.

“I'm sympathetic to reasons that the law is difficult for utilities, but PacifiCorp speaks out of both sides of its mouth,” says David Brown, co-founder of solar developer Obsidian Renewables LLC in Lake Oswego, Ore.

Berkshire Hathaway Energy says it's not so simple. The company, which owns several utilities using conventional and renewable power sources, is the second-largest owner of clean-energy assets in the U.S. But along with other utilities, it argues that the law is outdated, often raises costs for its customers, and forces utilities to buy more electricity than needed.

The law is called the Public Utility Regulatory Policies Act, or PURPA. Congress enacted it after the 1970s OPEC oil embargo to draw new players into the utility-dominated business of generating power. It required some utilities to buy power from certain power providers if doing so was less expensive than building new plants themselves. The idea was to boost the then-emerging natural gas industry—and perhaps spur renewables including solar.

Prices Locked In

The act worked—too well, from the standpoint of the utilities. As solar panel prices plunged in recent years, developers deluged utilities with projects to sell them power. Utilities complain the law is producing a surplus of power. Moreover, utilities say the contracts with developers, whose terms are generally set by state utilities regulators, often lock them in for years at high prices that don't necessarily reflect the current market.

“Why should our customers be saddled with billions and billions of dollars of above-market prices?” asks Kathy Steckelberg, vice president for government relations at the Edison Electric Institute, which represents U.S. investor-owned electric companies.

“The fact that renewables are increasing in our market we don't see as a problem,” Steckelberg says. Utilities would rather build or buy solar and wind farms themselves so they can pass on the development cost to ratepayers, rather than pay outsiders for the power. Yet under PURPA, they

often can't refuse an eligible deal.

Solar developers have proposed plans to generate about 3.5 gigawatts of power in Berkshire Hathaway's territories, the second most among regulated utilities in the U.S., according to Bloomberg New Energy Finance.

A spokeswoman for Berkshire's utilities unit wrote in a statement that PURPA "is no longer the key driver for renewable energy development." She cited rising corporate demand for renewables, falling costs, and government initiatives, such as state and federal tax incentives.

Utility Seeks Price Cut

In Wyoming, the company's Rocky Mountain Power, a division of PacifiCorp, is seeking a 40 percent cut to what it must pay small PURPA-eligible projects. PacifiCorp, which serves 1.8 million customers throughout the western U.S., has estimated the long-term contracts will cost consumers \$1.1 billion above market prices in the 10 years through 2025.

In Oregon, PacifiCorp asked regulators to reduce the size of any renewable deal it's forced to take, as well as the length of the contract during which it must buy power. The utility won a partial victory last year: Regulators said certain facilities of up to 3 megawatts would qualify, down from a threshold of 10 megawatts, but left the required contract term at 20 years.

"There's no project that I can imagine that I would do for PacifiCorp," says Brown, whose Obsidian has developed multiple solar farms that provide power to the utility. "The prices are too low, and they say they don't have any interest or need for renewable energy."

States including Idaho and Montana have sided with the utilities by reducing the length of power-purchase contracts. In Idaho's case, the term went to 2 years from 20, according to EnerKnol, a research firm. Contracts of such short duration make it almost impossible to get financing for new projects, solar developers say.

Long-term contracts are important for renewable providers because lenders prefer companies that can project a steady cash flow for many years.

"You cannot raise capital against a two-year contract," says Matthew McGovern, chief executive officer of Santa Monica, Calif.-based Cypress Creek Renewables LLC, one of the most active PURPA developers. "Utilities are now saying, 'Well, why not?' They know the answer."

Utilities may have a friend in President Donald Trump, who's said [climate change is a hoax](#) and who's keen to tip the scale from renewables to coal and other fossil fuels. Trump is in a position to reshape the Federal Energy Regulatory Commission, an agency with some authority over PURPA.

Then there's Congress, where some members are eager to strip away much of PURPA. Berkshire Hathaway Energy has proposed [altering the law](#) by, among other things, making it so utilities wouldn't be obligated to buy power from PURPA projects when states determine the extra electricity isn't needed. Its Rocky Mountain Power unit recently announced a plan to invest an additional \$3.5 billion in wind generation and transmission lines to bring the energy to customers.

Solar companies are resisting the changes. Many utilities are saying, "'we need to take this back,'" says Adam Foodman, chief operating officer of solar developer O2 Energies Inc. "But that's not in the interest of the public."

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China Nails Down New Environmental Guidelines for Construction

Posted August 08, 2017, 10:30 A.M. ET

By [*Michael Standaert*](#)

China's State Council has amended regulations on construction projects' requirements for the first time since 1998, a move it hopes will spur more environmental protection.

The simplified policy, which will take effect on Oct. 1, is being made to align with updates to the 2015 Environmental Protection Law and the 2016 Environmental Impact Assessment Law, as well as the forthcoming Environmental Tax Law in 2018 and a pollutant discharge licensing system being developed that puts the onus on companies to self-monitor and self-report their emissions.

The updated policy removes several duplications related to environmental impact assessment (EIA) procedures, putting more legal responsibility directly with construction companies and operators of completed projects. The updated construction guidelines increase penalties on builders who fail to get proper assessments, as well as those failing to or fraudulently reporting emissions after the project is completed.

Central government authorities have been working to reduce corruption and fraudulent activity related to the EIA system as well as penalize faked or under-reported emissions. This has included new qualifications and certifications for companies that conduct assessments as well as orders from the Supreme People's Court for courts to push for criminal prosecutions of those falsifying emissions.

"Under the previous regulation, punishment for illegal acts was too soft," Li Min, an official from the environmental engineering assessment center of the Ministry of Environmental Protection, said in an Aug. 2 commentary on the State Council Legislative Affairs office website. "Due to the low legal cost, implementation [of the policy] was not in place, resulting in construction projects that did not get assessment before starting construction."

Fines Increased

Under the old system, Li said, a company that started construction before an EIA was conducted would be ordered to get the assessment and pay a maximum fine of 100,000 yuan (\$15,000).

Now, under the updated rules, if a builder does not get the proper EIA the project could be permanently halted, with fines ranging from 1 percent to 5 percent of the expected investment cost, or no less than 100,000 yuan (\$15,000) to as high as 2 million yuan (\$300,000). Executives of the company could be liable for fines between 50,000 yuan to 200,000 yuan (\$7,500 to \$30,000).

The updated guidelines also include specific reasons that environmental authorities could block pending construction projects when reviewing the environmental impact assessment. They include if the project location, scale, and layout do not conform to environmental protection laws and regulations as well as area development plans and if a project is in an area that has not met environmental quality standards or regional emissions targets.

“These tools for not approving projects will be the law, and environmental protection departments can take advantage of this effective weapon,” Liu Lei, an official from the environmental engineering assessment center of the Ministry of Environmental Protection, stated in separate commentary on the State Council Legislative Affairs office website on Aug. 2.

Post-construction requirements for reporting emissions and other environmental issues will largely fall under the environmental tax and the pollutant licensing system, both which are still in the process of being rolled out.

Under the new rules, projects will have to have their monitoring systems and any technology that reduces emissions checked for compliance by local environmental authorities before final approval for full production.

Removed from the old requirement is a limit of three months to get checks on environmental protection technology [emissions reduction and monitoring technology, for example] during trial production, when companies could start some production to see if there were any issues they needed to address before going to full production. Now facilities will have to have that technology approved before starting any production.

According to a brief by Chen Guoqiang of the Sunshine Law Firm in Hangzhou published Aug. 2, this change could cause problems because it may be necessary for some facilities to “work out the bugs” before going to full production.

Chen said builders need to focus on getting acceptance from environmental authorities and not commit fraud in the process, otherwise both the company and executives could “face a large amount of fines.” Bloomberg BNA attempts to ask Chen for an interview were unsuccessful.

Builders will need to pay for the environmental impact statements, but will not be charged for the technical assessment by the government after they submit the EIAs, company environmental impact reports, and other required forms.

Bloomberg BNA attempts to get comment from several major construction companies were unsuccessful.

Gas Sellers Sidestep China State Giants to Ride Demand Surge

Posted August 08, 2017, 10:08 A.M. ET

By [Bloomberg News](#)

China’s independent energy firms are seeking to circumvent its state-backed giants as they cash in on swelling natural gas use, buoyed by President Xi Jinping’s drive for cleaner fuels and nimbler companies.

New import facilities developed by firms including Guanghui Energy Co. and ENN Group offer direct access to cheap liquefied natural gas and cut their reliance on supply and infrastructure controlled by the the country’s national oil companies. That may help new players tap China’s booming gas demand, up 15 percent in the first half of the year.

“The key thing about having your own terminal is that you can take advantage of potentially lower pricing in the market,” said Neil Beveridge, an analyst at Sanford C. Bernstein & Co. in Hong Kong.

“Also, it’s very difficult to get supply through the infrastructure of the Chinese oil majors because the access rules and regulations are not terribly transparent and not terribly well enforced.”

Smaller gas distributors and importers have found an opening as Xi’s government seeks alternatives to coal and encourages private competition in the energy sector. They’re poised to follow a similar trend in the oil industry, where independent refiners known as “teapots” have been allowed greater freedom to import crude, helping push China ahead of the U.S. this year as the world’s biggest importer.

Guanghui Energy last month received the second LNG cargo at its Qidong terminal, about 100 kilometers (62 miles) north of Shanghai. At least three more terminals are under construction or proposed including a port by ENN Group that’s scheduled to start next year. Guangzhou Development Group Inc. has proposed a new import terminal, as has China Huadian Corp., one of the nation’s biggest power generators, according to Bloomberg New Energy Finance.

New private ports enhance the bargaining power for distributors, which will lower downstream sales prices and boost China’s consumption, ENN Energy Holdings Ltd., the listed unit of ENN Group, said in an emailed response to questions. It declined to comment specifically on the Zhoushan LNG terminal owned by its parent, which didn’t respond to a separate request for comment.

Xinjiang-based Guanghui, which was one of the first non-state companies to receive a license to import crude, plans to allow third parties to deliver and store LNG at the Qidong site, chief engineer Xue Wenting said last month. The terminal’s annual capacity will be expanded to 3 million metric tons by 2019 from 650,000 tons now, he said.

Jovo Energy Co., which was the first private Chinese company to begin importing LNG, began operating its Dongguan facility in Guangdong in 2012. The company also stores and sells liquefied petroleum gas and has an oil and chemicals business, according to its [website](#).

China, which is forecast to more than double LNG purchases by 2022, has more than a dozen import terminals owned by its three state energy giants, which buy most of their cargoes on long-term contracts. But given the current global gas glut, new buyers can pick up cheaper shipments on the spot market, where analysts at SCI International estimate costs are about 50 percent less than average rates under the country’s existing term contracts.

“Those companies can get cheaper LNG prices from the spot market on a more flexible basis and they can meet demand from their widespread distribution networks,” said Maggie Kuang, an analyst with BNEF in Singapore.

China’s LNG demand will expand by 5 million to 6 million tons annually over the next few years and private investors may account for about 20 percent of that growth, according to Michal Meidan, an analyst with Energy Aspects Ltd. in London. Bernstein’s Beveridge estimates that share to be less than 10 percent of the 60 million tons of LNG he forecasts the country will be importing annually by the end of the decade.

China’s national oil companies account for about 92 percent of the country’s long-term contracts and “still firmly dominate the LNG import market,” said BNEF analyst Nannan Kou. While Guanghui Energy has been buying spot LNG, it’s seeking to sign long-term contracts with suppliers, including Malaysia’s Petroliaam Nasional Bhd, chief engineer Xue said.

The Chinese government is encouraging private capital to help construct LNG receiving facilities and pipelines, according to guidelines published last month by the country’s National Development

and Reform Commission. China's top economic planner also said LNG import capacity and natural gas pipeline length will more than double in the 10 years to 2025.

Opening Up

"This is part of the government's efforts to open up the sector to non-state actors and increase efficiencies through greater competition," said Meidan at Energy Aspects.

China National Offshore Oil Corp. and China National Petroleum Corp., the country's first and second-largest LNG importers, didn't respond to calls seeking comment. A spokesman for China Petrochemical Corp., known as Sinopec Group, said Monday he couldn't immediately respond to questions.

LNG imports in June hit the highest on record for that month, in line with the country's booming demand, offering a boost for gas distributors. China Gas Holdings Ltd. has gained 85 percent this year while ENN Energy has climbed 69 percent. That compares with a 27 percent gain for the benchmark Hong Kong Hang Seng Index.

The Chinese government has set a goal of getting as much as 10 percent of its energy from gas by 2020 and 15 percent by 2030, up from 6 percent in 2015. To meet these goals, demand will grow by an average of 15 percent annually between 2016 and 2020, according to Macquarie Group Ltd.

Enough Supply?

The country's natural gas production, which is dominated by CNPC and Sinopec Group, rose 8 percent in the first half of 2017 compared to the same period a year ago. Meanwhile, imports have jumped 21 percent in the first seven months of the year, according to data released Tuesday.

Fast-growing supply may be needed, as Sinopec Group has already flagged a possible "big" increase in gas demand this coming winter compared to last year, particularly in the country's north, Shanghai Securities News reported Tuesday, citing a company meeting.

Even after independent gas distributors build LNG facilities, they're often still reliant on pipeline networks operated by the state-backed giants, according to Bernstein's Beveridge.

"It's still all about access with the majors" for an independent distributor, he said. "There are still more regulatory rules that are needed, so these companies are very much pioneers."

—With assistance from Dan Murtaugh, Aibing Guo and Adrian Leung.

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China Importing Less Coal Amid New Import Rules

Posted August 08, 2017, 8:38 A.M. ET

By [Bloomberg News](#)

China's coal imports in July declined to the lowest in more than a year as a new import rule may have delayed some shipments.

Imports by the world's largest energy user dropped 13 percent from the previous month to the equivalent of 627,742 metric tons a day, according to Bloomberg calculations based on data from the General Administration of Customs on Aug. 8. That's the least since May 2016.

The nation started to ban coal shipments from July 1 at ports that were set up through approvals by provincial authorities. Some imports have been diverted to enter China through ports approved under the authority of the State Council, which may have created delays, according to Deng Shun, an analyst with GF Futures Co.

"Coal demand was very robust last month, but the shipment volumes reported by customs could have been affected by the new import rule," Deng said before the data were released.

On a monthly basis, China's coal imports were 19.46 million tons in July, according to the data released Aug. 8. They totaled 152.71 million tons during the first seven months of the year, up 18 percent from the same period a year earlier.

Imports also declined as China's coal production rose in June to the highest since November 2015 after the government lifted restrictions on output to boost supplies amid higher demand.

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VW Offers Incentives In Germany for Trade In of Dirty Diesels

Posted August 08, 2017, 9:37 A.M. ET

By [Christoph Rauwald](#)

Volkswagen AG's namesake brand and its upscale sister marque Audi are offering as much as 10,000 euros (\$11,800) per car in incentives in Germany to trade in older diesel models for new ones that spew out fewer emissions as political pressure to fight pollution intensifies ahead of general elections.

The incentives depend on which model is purchased and the offer is open for owners of cars from rival manufacturers, VW and Audi said Aug. 8 in an emailed statements.

"Volkswagen is convinced that clean and efficient diesel engines with modern emission-reduction systems are an indispensable engine technology to reach CO2 emissions targets," while the manufacturer will still "strongly support" the shift to electric cars, Juergen Stackmann, head of the VW brand, said in the division's statement. VW's incentives start at 2,000 euros for the purchase of a new Up! city car and reach 10,000 euros for a Touareg sport utility vehicle.

The Wolfsburg, Germany-based automaker is still struggling to draw a line under the diesel-emissions scandal that erupted almost two years ago and triggered the worldwide recall of some 11 million cars with rigged software. Volkswagen Chief Executive Officer Matthias Mueller last week confirmed the manufacturer is offering software fixes for as many as 4 million diesel cars in Germany across all of the group's nameplates, including about 2.5 million VW-brand cars that were part of a mandatory recall.

Demand for cars with diesel engines is declining in several European markets as regulators stepped up scrutiny of emission rules to improve air quality. Environmental advocacy group Deutsche Umwelthilfe, a fierce critic of diesel cars, last month won a case at a Stuttgart administrative court

seeking broad diesel bans in the hometown of VW's German peer Daimler AG.

The trade-in offers are valid through the end of the year. Volkswagen's commercial-van division and Czech unit Skoda also said they're providing incentives.

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European Oil Producer Considers Bet on Electric Car Boom

Posted August 08, 2017, 8:24 A.M. ET

By Francois de Beaupuy

The boss of Europe's second-largest oil and gas producer is considering whether to double down on its \$1.1 billion purchase of battery maker Saft by betting on an electric-car boom.

Total SA Chief Executive Officer Patrick Pouyanne said in May that 12 months of owning Saft had helped him understand the case for gigafactories -- the giant lithium-ion battery plants being pioneered by Elon Musk's Tesla Inc. While Pouyanne views Saft as the company's "spearhead in electricity storage," he's so far stopped short of saying Total would get into the battery business for cars.

A mass auto market for power packs would offer Total a hedge against a looming peak in oil demand as the U.K. and France ban sales of diesel- and gasoline-fueled vehicles from 2040. Despite that attraction, the industry is getting more crowded and, according to Canaccord Genuity, Pouyanne may seek partners to leverage Saft's expertise as a niche maker of high-tech batteries for planes, satellites and military vehicles.

"Of all the battery applications, this is the one that's going to be the biggest," said Colin McKerracher, head of advanced-transport analysis at Bloomberg New Energy Finance in London. "The flipside of that is that it's going to become increasingly commoditized and very, very competitive."

The significance of the burgeoning industry isn't lost on oil majors. Royal Dutch Shell Plc, whose CEO Ben Van Beurden last month said his next car will be electric, plans to spend as much as \$1 billion a year on its New Energies division as the transition toward renewable power and electric cars accelerates. The Shell boss sees demand for liquids peaking in "the early 2030s."

"Electric vehicles are progressing quickly these days, notably as urban vehicles," Pouyanne said in Aix-en-Provence on July 7. "Which is why we've decided to install charging stations in our network, because we know there will be an evolution, and that we've bought a battery maker called Saft."

Electric Potential

The emergence of light electric vehicles in large urban areas will become a reality in the next 20 years, a Total spokesman wrote in an email. "We are convinced that the use of Saft's high-performance batteries will be key for a reduction of CO2 emissions by 40 percent by 2030," he said.

With most major automakers planning plug-in models by the middle of the next decade, demand for lithium-ion batteries for electric vehicles will rise more than 60-fold by 2030 to 1,300 gigawatt-hours, according to a July report from Bloomberg New Energy Finance. Electric cars will outsell

fossil-fuel powered vehicles within two decades as battery prices plunge, and displace about 8 million barrels a day of oil production by 2040, BNEF said.

That will progressively dent the filling-station business of Total and its peers.

“It could be that in 15 years, the only fuels that you can sell in those stations are heavy truck diesel,” said Alex Brooks, an analyst at Canaccord. “They have to have some way of responding.”

Total’s solar-panel subsidiary, SunPower Corp., demonstrates the challenges of finding a response in a rapidly evolving industry. While installation of solar farms has grown rapidly, competition from Chinese manufacturers has squeezed margins. Batteries for electric vehicles may follow a similar path as production volumes soar with investment in more gigafactories.

To adapt, Pouyanne last year created a division tying up the company’s gas, renewables and power businesses, harnessing offerings spanning solar panels and batteries to gas and electricity distribution to households and businesses.

In its November [magazine](#), Saft said it’s looking for “joint opportunities” with SunPower “to develop the role of batteries in the intermittency” of renewables. Saft already supplies large batteries to utilities, grid operators and oil producers, as well as backup energy-storage systems for solar and wind farms.

Investment Strategy

When the French government announced plans on July 6 to end the sale of gasoline- and diesel-powered vehicles by 2040 in a bid to become a carbon-neutral nation, it also said it will support investment in batteries for electric cars.

“What you need is scale and tolerance for low margins, at least in the short term, as everyone jostles for position,” said BNEF’s McKerracher. “That’s kind of the big risk, and in my view, probably why Saft may end up sticking with some of the higher-value applications that it’s already involved in.”

To limit its investment, Total may choose to license Saft’s technology to carmakers and auto suppliers, or partner with them to share the cost of a megaplant, according to Canaccord analyst Brooks.

“If Total announced tomorrow plans to put down \$10 billion to build a factory, I think investors would hate it, because people would say: ‘you don’t know anything about it, this is not your business,’” said Brooks. “You can be the guy who licenses the chemistry without having to put down a huge amount of the capital for the build. Let Daimler do that.”

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Egypt Moves to End State Monopoly of Natural Gas Market

Posted August 08, 2017, 8:52 A.M. ET

By [Salma El Wardany](#), [Mirette Magdy](#) and [Tamim Elyan](#)

Egypt is opening the door to private participation in its natural gas sector, moving to end the state’s

monopoly as it pushes ahead with reforms meant to encourage investment and revive the economy.

A new law signed by President Abdel-Fattah El-Sisi sets up a natural gas regulatory authority charged with licensing and devising a plan to open the gas market to competition. It also allows for the eventual import of natural gas by private companies, a move that could help end supply shortages that have hampered businesses.

The measure, which had been more than two years in the making, is the government's latest push to spur investment in an economy that has struggled to revive since the 2011 uprising against President Hosni Mubarak. Over the past year, authorities have instituted sweeping reforms, backed by the International Monetary Fund, that have included floating the currency, sharp subsidy cuts and enacting legislation aimed at drawing in sorely needed foreign money.

The new legislation also advances Egypt's objective to achieve energy self-sufficiency by 2019, largely through eventual output from the giant Zohr natural gas field.

The law would allow the private sector to directly ship, transport, store, market and trade natural gas using the pipeline and network infrastructure. Its executive regulations are to be issued within six months of the legislation's enactment, according to the Official Gazette.

"This law effectively relieves the government from the burden of providing for the rapidly growing natural-gas consumption and turns it into a regulator," said Radwa El-Swaify, head of research at Cairo-based Pharos Holding. "It's all part of the same direction of having freer markets in Egypt."

In July, the government said it will stop subsidizing bread flour and raised household electricity prices by as much as 42 percent, just a week after it increased fuel prices.

The move to liberalize the gas market will bring in greater transparency and flexibility, said Haitham Abdul Moneim, investor relations manager at Egypt Kuwait Holding, which partially owns and manages fertilizer producer AlexFert. "This will give us more options for sources of gas and maybe better prices," he said.

—With assistance from Tarek El-Tablawy, Ahmed Feteha and Tamim Elyan.

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