



ML Strategies Update

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Energy & Environment Update

ENERGY AND CLIMATE DEBATE

Energy and environment debates are heated in Washington this week, as the Senate continues negotiations over the Keystone XL pipeline and Congressional tax reform debates get underway.

The Senate voted January 12 to begin debate on legislation (S. 1) to support the construction of the Keystone XL pipeline. Amendments began to fly January 20. Senate Energy and Natural Resources Committee Chair Lisa Murkowski (R-AK) offered a procedural amendment. Senators Rob Portman (R-OH) and Jeanne Shaheen (D-NH) offered a scaled-down energy efficiency package that would promote efficiency in government buildings and push back water heater regulations. Sense of the Senate Amendments from Senators Tim Kaine (D-VA), Brian Schatz (D-HI), Jeff Merkley (D-OR), Sheldon Whitehouse (D-RI), and Bernie Sanders (I-VT) call on the chamber to recognize that climate change is real and caused by human activity. An amendment from Senator Al Franken (D-MN) would require TransCanada Corporation to use U.S. materials to build the pipeline. An amendment from Senator Ed Markey (D-MA) would prevent the export of crude oil from the pipeline. An amendment from Senator Ted Cruz (R-TX) would lift restrictions on crude oil exports and hasten liquefied natural gas exports. Amendments from Senators Cruz, John Hoeven (R-ND), and Joe Donnelly (D-IN) would streamline the development of cross-border energy infrastructure. An amendment from Senator Deb Fischer (R-NE) would outlaw the use of greenhouse gas considerations in National Environmental Policy Act reviews. An amendment from Senator Orrin Hatch (R-UT) would leave fracking oversight primarily to states. An amendment from Senator Ed Markey (D-MA) would extend the wind production tax credit. An amendment from Senator Kirsten Gillibrand (D-NY) would define underground national gas injection to include storage. An amendment from Senator Susan Collins (R-ME) would provide government assistance for school energy retrofits. An amendment from Senator Cory Gardner (R-CO) would promote federal building energy efficiency. An amendment from Senator Mike Enzi (R-WY) would limit the Environmental Protection Agency's power over state plans to limit visibility pollution near national parks. Amendments from Senator Pat Toomey (R-PA) would eliminate the corn ethanol fuel mandate (co-sponsored by Senator Dianne Feinstein (D-CA)), limit Environmental Protection Agency regulations on power plants that burn waste coal, and mandate a study of transitioning the federal government's vehicle fleet to natural gas vehicles. An amendment from Senator Gary Peters (D-MI) would mandate a study on the impacts of petcoke. An amendment from Senator Dick Durbin (D-IL) would designate petcoke as a hazardous waste. Amendments from Senator Amy Klobuchar (D-MN) would prevent metal theft and promote energy efficiency retrofits. Amendments from Senator Mike Lee (R-UT) would implement revisions to the Endangered Species Act. An amendment from Senator Ron Wyden (D-OR) would express the sense of the Senate that waste from oil and gas operations, particularly methane emissions, should be minimized. An amendment from Senator Maria Cantwell (D-WA) would require tar sands projects to pay a fee into the Oil Spill Liability Trust Fund.

Most amendments either focused on Keystone related issues, climate issues, or political messaging. Many of the amendments served as previews to energy and environment debates likely to return for discussion during the 114th Congress. The upper chamber has backed the energy efficiency amendment from Senators Portman and Shaheen and a few other amendments during the process early last week.

The Senate voted January 22 on three amendments to the measure regarding climate change. One of the amendments passed, and two failed. Senator Sheldon Whitehouse's (D-RI) measure (S. Amd. 29), which passed, 98-1, expressed the Sense of the Senate that climate change is real. The other two amendments failed because of a contention over humanity's contribution to climate change. Senator John Hoeven's (R-ND) amendment (S. Amd. 87) stated that human activity contributes to climate change, and fell one vote shy of the votes needed to pass. Senator Brian Schatz's (D-HI) amendment (S. Amd. 58) said that human activity "significantly" contributes to climate change, and failed 50-49.

A contrasting amendment (S. Amd. 79) from Senators Roy Blunt (R-MO) and James Inhofe (R-OK) stating that the November 2014 U.S.-China climate agreement has no "force and effect" in the United States also failed January 22.

After Senate Majority Leader Mitch McConnell (R-KY) filed a motion for cloture on the legislation January 22, Democrats in the upper chamber mounted their first successful filibuster of the new Congress January 26, as the upper chamber voted 53-39 to cut off debate on the Keystone XL legislation. Senate Democrats are urging Majority Leader McConnell to hold more amendment votes as proof of his commitment to an open amendment process in the chamber. Majority Leader McConnell could schedule a new vote as early as Thursday, but the upper chamber may carry the debate into early next week as well.

The tax reform debate is expected to continue in the coming days, weeks, and months, though how fruitful the negotiation will be remains unknown. With a busy must-pass calendar, including March's Medicare physical reimbursement rate cutoff, May's Highway Trust Fund expiration, and mid- to late summer's federal debt limit increase, there are opportunities to attach tax legislation in the coming months, and Senate Finance Committee Chair Orrin Hatch (R-UT), House Ways and Means Committee Chair Paul Ryan (R-WI), and President Obama have expressed the desire to seek common ground to negotiate a tax reform agreement this year. The Highway bill's expiration, for example, could provide an opportunity to overhaul business taxes to raise the nearly \$150 billion in necessary infrastructure funding. Seven Senate Finance Committee Republicans are up for re-election in 2016, and Committee Chair Hatch will have to decide if he wants to put them in the position of voting on significant tax reform if White House support appears wavering. Senators Hatch and Ron Wyden (D-OR) issued a joint news released last week on five working groups designed to examine potential changes to different elements of the tax code. In the end, comprehensive tax reform may be too difficult a lift this year, and Congress may address business-only changes, including tax extenders provisions, for the time being. Until then, though, broader negotiations continue.

House Majority Leader Kevin McCarthy (R-CA) said January 22 that the House would vote this week on legislation ([H.R. 351](#)) to expedite permits for natural gas pipelines. Representative Bill Johnson's (R-OH) measure would give the Department of Energy 30 days to issue a final decision on a natural gas export application after its National Environmental Policy Act review is complete. The LNG Permitting Certainty and Transparency Act is similar to Senator John Barrasso's (R-WY) legislation (S. 33) and a bill (H.R. 6) the House approved in June.

House Democrats will hold a two-day, closed-door party retreat in Philadelphia January 29-30. President Obama will release February 2 his fiscal year 2016 budget request.

CONGRESS

Inhofe-Boxer Agenda

Senate Environment and Public Works Chair James Inhofe (R-OK) and Ranking Member Barbara Boxer (D-CA) announced during the committee's first organization meeting January 21 that the committee will have vigorous debate on environmental issues, but the committee leaders plan to cooperate to advance a five year transportation bill. Senator Inhofe also announced he would reduce the number of subcommittees from six to four, giving three of the chairmanships to freshman senators. Senator Shelley Moore Capito (R-WV) will chair the Subcommittee on Clean Air and Nuclear Safety; Senator Mike Rounds (R-SD) will chair the Subcommittee on Waste Management and Regulatory Oversight; Senator Dan Sullivan (R-AK) will chair the Subcommittee on Fisheries, Wildlife, and Water; Senator David Vitter (R-LA), former committee ranking member, will chair the Subcommittee on Transportation and Infrastructure.

Coal Ash Hearing

During a House Energy and Commerce Subcommittee on Environment and the Economy hearing January 22, Republican Representatives, led by Full Committee Chair Fred Upton (R-MI) and Environment and the Economy Subcommittee Chair John Shimkus (R-IL), questioned the adequacy of the Environmental Protection Agency's December coal ash regulations. They promised to introduce new legislation on the matter soon. The House has, on multiple occasions, passed legislation from Representative David McKinley (R-WV) that would give states the primary responsibility in implementing minimal federal standards for coal ash management and disposal, while providing a regulatory role for the Environmental Protection Agency if necessary. Environmental Protection Agency Assistant Administrator for Solid Waste and Emergency Response Mathy Stanislaus said that the final rule would not harm the beneficial use of coal ash or result in excessive litigation, and it would allow utilities to comply with one set of requirements if the agency approved a state waste plan with stronger protections than the minimum federal standard.

Senate Finance Subcommittees

The Senate Finance Committee announced January 22 subcommittee assignments for 2015. Senators Dan Coats (R-IN) and Michael Bennet (D-CO) will serve as chair and ranking member of the Subcommittee on Energy, Natural Resources, and Infrastructure. Senators John Cornyn (R-TX) and Ron Wyden (D-OR) will serve as chair and ranking member of the Subcommittee on Trade, Customs, and Global Competitiveness. Senators Dean Heller (R-NV) and Sherrod Brown (D-OH) will serve as chair and ranking member of the Subcommittee on Social Security, Pensions, and Family Policy. Senators Michael Crapo (R-ID) and Bob Casey (D-PA) will serve as chair and ranking member of the Subcommittee on Taxation and Internal Revenue Service Oversight. Senators Rob Portman (R-OH) and Mark Warner (D-VA) will serve as chair and ranking member of the Subcommittee on Fiscal Responsibility and Economic Growth.

Legislation Introduced

Senators Ed Markey (D-MA), Sheldon Whitehouse (D-RI), and Jeff Merkley (R-OR) introduced legislation (S. 187) January 16 to clarify that products derived from tar sands are crude oil for purposes of the Federal excise tax on petroleum.

Senator Ed Markey (D-CA) introduced legislation ([S. 188](#)) the same day to ensure that oil transported through the Keystone XL pipeline into the United States is used to reduce American dependence on Middle Eastern oil, rather than exported out of the country.

Representative Ted Poe (R-TX) introduced legislation (H.R. 428) January 21 to provide for the expedited approval by the Secretary of Energy of liquefied natural gas exports.

Representative Michael Burgess (R-TX) introduced legislation (H.R. 434) the same day to repeal certain amendments to the Clean Air act relating to the expansion of the renewable fuel program.

Representative Scott Tipton (R-CO) introduced legislation ([H.R. 459](#)) the same day to direct the Secretary of the Interior to establish goals for an all of the above energy production plan strategy on a four-year basis for all onshore Federal lands managed by the agency and the Forest Service.

Senator David Vitter (R-LA) introduced legislation January 22 to amend the Federal Water Pollution Control Act to confirm the scope of the Environmental Protection Agency administrator's authority to deny or restrict the use of defined areas as disposal sites.

Representative Markwayne Mullin (R-OK) introduced legislation ([H.R. 486](#)) January 22 to direct the Secretary of Transportation to ensure that on-duty time does not include waiting time at a natural gas or oil well site for certain commercial motor vehicle operators.

Representative Jeff Duncan (R-SC) introduced legislation (H.R. 493) the same day to update avian protection laws in order to support an all of the above domestic energy strategy.

Representative Scott Peters (D-CA) introduced the Super Pollutant Emissions Reduction Act (H.R. 508) the same day to establish a task force to review policies and measures to promote and develop best practices for the reduction of short-lived climate pollutants. The measure targets emissions of short-lived climate pollutants including black carbon, methane, hydrofluorocarbons, ozone precursors, and some ozone-depleting substances with high global warming potentials. The legislation mirrors language Representative Peters introduced in the previous Congress, and Senator Chris Murphy (D-CT), who introduced a super pollutant bill late last Congress, plans to pursue soon similar legislation in the Senate.

Upcoming Hearings

The Senate Energy and Natural Resources Committee will hold a hearing January 29 to consider liquefied natural gas export application legislation (S. 33) from Senators John Barrasso (R-WY) and Martin Heinrich (D-NM).

The Senate Environment and Public Works Committee and the House Transportation and Infrastructure Committee will hold a joint hearing February 4 on the Environmental Protection Agency's proposed Clean Water Act jurisdictional rulemaking.

ADMINISTRATION

Podesta Replacement Announced

The White House announced January 21 that Office of Management and Budget Deputy Director Brian Deese will replace outgoing John Podesta when he departs in February. He will take over Mr. Podesta's climate and energy policy portfolio, serving as senior adviser to Presidents Obama. Mr. Deese previously served as deputy director of the National Economic Council.

Arctic Policy Coordination

President Obama released an [executive order](#), Enhancing Coordination of National Efforts in the Arctic, January 21 creating a steering committee that will advise federal agencies and departments on policies that could impact the Arctic region. A related working group will report by May 1 on potential overlap among the agencies. Secretary of State John Kerry will begin a two-year chairmanship of the Arctic Council in April.

U.S.-India Energy Agreement

President Obama and Indian Prime Minister Narendra Modi agreed January 25 to work together on climate change in advance of the Paris international climate negotiations at the end of the year. Prime Minister Modi said that the threat of climate change was enough to push India to take action. The two nations also agreed to continue working to phase down hydrofluorocarbons; double their commitment to the U.S.-India Joint Clean Energy Research and Development Center by renewing funding for solar, energy efficiency, and biofuels research for five years and launching new research on smart grid and grid storage technology; expand Indian renewable energy and help India meet its goal of increasing solar capacity to 100 GW by 2022; improve air quality; make heavy-duty vehicles cleaner; make appliances more efficient; and allow U.S. investment in Indian nuclear energy.

Caribbean Energy Summit

Vice President Joe Biden hosted a summit on Caribbean energy security January 26, focusing on switching to renewable energy. The summit included remarks from the vice president and other United States officials as well as representatives from the European Union, the United Nations, and multilateral financing agencies. The talks focused on ways to help Caribbean countries convert diesel powered energy plants to natural gas, increase the use of renewable energy sources, and increase energy security in the region.

CEQ Chair to Depart

White House Council on Environmental Quality Acting Chair Mike Boots will depart in March. Mr. Boots previously served as the council's chief of staff, but assumed the acting chairmanship last February when Nancy Sutley departed. The White House plans to hire Christy Goldfuss, deputy director of congressional and external relations at the National Park Service as a senior adviser who will ultimately replace Chair Boots in March.

DEPARTMENT OF COMMERCE

Solar Trade Case

The International Trade Commission made affirmative injury [rulings](#) January 21 in cases targeting imports of crystalline silicon photovoltaic products from China and Taiwan. The determinations will result in steep duties being applied to the imports, but can be challenged in the U.S. Court of International Trade or through the World Trade Organization dispute settlement process. The Commerce Department previously found that the imports have been sold at dumping margins ranging from 26.71 percent to 165.04 percent, and 11.45 percent to 27.55 percent, respectively. Chinese imports also received countervailable subsidies ranging from 27.64 percent to 48.79 percent. China's Ministry of Commerce released a statement the following day saying that the ruling will hurt both local manufacturers and American companies that buy the panels.

DEPARTMENT OF ENERGY

EECBG Return Requested

Mayors from across the country [called](#) on Energy Secretary Ernest Moniz during the 83rd meeting of the U.S. Conference of Mayors January 21 to bring back the Energy Efficiency and Conservation Block Grant Program that was funded only once, under the American Recovery and Reinvestment Act in 2009, since it was authorized by the Energy Independence and Security Act of 2007. The grants are intended to assist state and local governments in funding energy efficiency and renewable energy projects in buildings, transportation, and other sectors.

DEPARTMENT OF INTERIOR

Transmission Line Approved

The Bureau of Land Management [approved](#) January 24 the SunZia Southwest Transmission Project, a \$2 billion, 515-mile line intended to carry 3 GW from solar and wind projects. The project had come under scrutiny because it will cross a section of the White Sands Missile Range, but the Departments of Interior and Defense negotiated an agreement that includes buying several segments totaling five miles. Developers must still obtain state and local permits and rights of way from landowners and secure financing before beginning construction. The company plans for the line to be operational by 2018.

ANWR Protections

The Department of Interior released a proposal January 25 to protect 12.28 million acres of the Arctic National Wildlife Refuge, including the refuge's coastal plain. Only Congress has the authority to make wilderness designation, and Republicans are unlikely to approve the proposal.

Offshore Plan Forthcoming

The Department of Interior's Bureau of Ocean Energy Management is expected to release January 27 its draft five-year plan for offshore oil and gas drilling. The current plan runs 2012-2017.

ENVIRONMENTAL PROTECTION AGENCY

Solid Waste Incinerator Challenge

The Environmental Protection Agency filed a respondent brief January 16 in the U.S. Court of Appeals for the District of Columbia

Circuit defending its approach to setting maximum achievable air control technology standards for commercial and industrial solid waste incinerators. Environmental groups, including the Sierra Club and others, and industry groups, including the American Chemistry Council, the American Petroleum Institute, and others, are separately challenging the 2013 standards.

Natural Gas Use

The Eastern Interconnection States' Planning Council and the National Association of Regulatory Utility Commissioners released a [white paper](#) January 20 finding that Environmental Protection Agency regulations and market forces are driving the use of natural gas to power electricity generation, but the move will require new investments in infrastructure to ensure reliability.

MATS Alternative Compliance Challenged

The Utility Air Regulatory Group filed a lawsuit January 20 in the U.S. Court of Appeals for the District of Columbia challenging the Environmental Protection Agency's November 2014 mercury and air toxics standards rule providing an alternative method for power plants to comply with the rule during periods when equipment is starting up and shutting down.

Meiburg to Deputy Administrator

The White House announced January 22 that President Obama intends to nominate Stanley Meiburg, acting deputy administrator and senior adviser to Environmental Protection Agency Administrator Gina McCarthy since last October, as Acting Deputy Administrator. Following a short retirement after a long career with the agency, Mr. Meiburg returned to the agency this fall to replace Lisa Feldt, who served as acting deputy administrator for a few months after former deputy administrator Bob Perciasepe left in August. Mr. Meiburg previously spent 18 years as a deputy regional administrator for the Region 4 office and a year as Region 6 deputy regional administrator. He also directed the Region 6 Air, Pesticides, and Toxics Division, held a number of positions at the Office of Air Quality Planning and Standards and at agency headquarters.

INTERNATIONAL

Climate's Chemical Accident Impact

The Organization for Economic Cooperation and Development's Working Group on Chemical Accidents published [guiding principles](#) January 15 addressing natural hazards triggering technological accidents, finding that because climate change could impact their "intensity, frequency, and geography," governments and institutions should help companies prepare for potentially related chemical accidents.

Chinese Coal Production Reduction

China announced January 23 that it recorded its first coal production reduction since 2000 last year. The nation produced 3.5 billion tons of coal in the first 11 months of 2014, 2.1 percent less than the same period the previous year. The nation estimates that the drop for the entire year will reach 2.5 percent. Major Chinese coal company profits dropped 44 percent in that same period.

Indian RE Investment

Bloomberg New Energy Finance released January 23 data showing that Indian clean energy investments increased to \$7.9 billion in 2014, maintaining the nation's position as the seventh largest clean energy investor in the world. The report projects that the nation will invest more than \$10 billion for the second time in 2015; India invested a record \$13.1 billion in 2011.

Environmental Goods Negotiations

World Trade Organization participants in the Environmental Goods Agreement will resume negotiations January 26-30 on trade liberalization efforts. The negotiations, launched last July to liberalize trade and reduce import tariffs on more than 50 environmental goods such as solar panels and wind turbines, may determine the agenda for the Ministerial Conference in Kenya this December.

STATES

Amazon IN Wind

Amazon announced January 21 plans to support the construction and operation of a wind farm in western Indiana. The company will work with Pattern Energy Group to build the Amazon Web Services Wind Farm, which will power Amazon Web Services' data centers. The facility, expected to generate about 500,000 MW a year, may come online as soon as early next year.

Cape Wind Trouble

Quonset Development Corporation announced January 21 that it terminated contracts to buy land and facilities in Falmouth and Rhode Island for Cape Wind, the latest sign that the \$2.5 billion effort to become the country's first offshore wind farm may never produce energy. The same day, ISO New England suspended the developer, which has sought for more than a decade to launch the 101 turbine Nantucket Sound project, from participating in New England's wholesale electricity markets. ISO New England notified the Federal Energy Regulatory Commission of the suspension January 20. National Grid and Northeast Utilities terminated their contracts to buy power from the facility at the first of the year because Cape Wind failed to meet a December 31 deadline to obtain financing, start construction, or provide financial collateral to extend the contract.

MISCELLANEOUS

Low Gas Price EV Impact

BMW AG said during the January 20 Digital Life Design-15 conference in Munich that inexpensive gasoline may make electric vehicles even more difficult to sell, predicting that sales of zero-emission vehicles will dip in some countries. The company is developing plug-in versions of all of its top models. The Electric Drive Transportation Association found that sales of hybrid and electric vehicles totaled 570,475 vehicles last year, down 3.7 percent from the previous year.

\$48 Million Clean Energy Initiative

Bloomberg Philanthropies and the Heising-Simons family announced January 21 a \$48 million Clean Energy Initiative to increase state-level efforts to deploy more clean energy and implement the Environmental Protection Agency's Clean Power Plan. The money will be split into grants for state, local, and national groups.

Wind Capacity Growth

Bloomberg New Energy Finance released a statement January 22 finding that domestic wind installations grew sixfold in 2014 compared to the previous year, making the United States the second largest wind technology market after China. The country added 4.7 GW of new onshore wind capacity in 2014, largely due to the January 2013 extension of the Production Tax Credit. Domestic onshore wind installations now total 64.2 GW. China remains the largest wind power market, with installations rising a record 38 percent, or 20.7 GW, in 2014 from the previous year. China's grid-connected wind energy capacity totals 96 GW.

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