



ML Strategies Update

David Leiter, DJLeiter@mlstrategies.com
Sarah Litke, SLitke@mlstrategies.com
Neal Martin, RNMartin@mlstrategies.com

FOLLOW US ON TWITTER: [@MLStrategies](https://twitter.com/MLStrategies)

ML Strategies, LLC
701 Pennsylvania Avenue, N.W.
Washington, DC 20004 USA
202 434 7300
202 434 7400 fax
www.mlstrategies.com

NOVEMBER 10, 2015

Energy & Environment Update

ENERGY AND CLIMATE DEBATE

Despite the House being in recess for the Veterans Day holiday, bicameral negotiations on an omnibus appropriations package continue this week. Congress must come to an agreement on the 12 spending bills by December 11, and though appropriators are trying to get the package ready as soon as possible, sorting out specific allocations and negotiating riders, as well as taking into account the Thanksgiving holiday recess, means that finalization of the \$80 billion omnibus is not truly expected until the week of December 7. The Senate has a number of other issues on its agenda this week, including long-term highway funding (H.R. 22), for which it is naming conferees to negotiate differences in the first multi-year highway authorization law since 2012, defense authorization, nominations, and several hearings. Among other energy provisions from House energy legislation (H.R. 8), the House adopted an [amendment](#) from Representative Fred Upton (R-MI) to the Highway Bill that would waive environmental regulations if a power plant were ordered to operate during an emergency. As expected, the House is planning to address energy issues, including H.R. 8, portions of which were adopted as an amendment to the highway bill, on the floor the week of November 30. Additionally, Senate Environment and Public Works Committee Chair James Inhofe (R-OK) said late last week that the upper chamber will vote prior to the global climate negotiations in Paris on measures (S.J. Res. 23 and S.J. Res. 24) disapproving the Environmental Protection Agency's power plant rules, both of which have companion resolutions in the House.

Off the floor, Representative Paul Ryan's (R-WI) elevation to the speakership left a vacancy at the helm of the House Ways and Means Committee, with Representatives Kevin Brady (R-TX) and Pat Tiberi (R-OH) jockeying for the chairmanship. Last week, the House selected Representatives Brady to chair the committee, and he has indicated that he, like Senate Finance Committee Chair Orrin Hatch (R-UT), plans to prioritize permanent extensions for select tax provisions. A number of options remain on the table for tax extenders, including one- or two-year renewals. Negotiations continue in both chambers on a best path forward for any possible end of the year package, which may include tax extenders, the lifting of the 40-year old crude oil export ban, and more.

As the international climate negotiations in Paris loom, nations across the globe continue their preparations, and the Obama Administration is focusing heavily on behind the scenes negotiations on the text itself. The final Paris preparatory talks ran October 19-23 in Bonn; ministers and heads of delegations from about [75 countries](#) met November 8-10 to discuss the [51 page](#) draft text and discuss a range of issues still outstanding, including climate finance, adaptation and mitigation efforts, and the responsibilities of developing versus developed nations. The negotiations themselves will take place November 30-December 11 in Paris. Secretary of State John Kerry, Environmental Protection Agency Administrator Gina McCarthy, Energy Secretary Ernest Moniz, and high-level staff have been deliberating about the negotiations in weekly climate meetings with top White House officials as the administration works diligently behind the scenes in the final weeks before Paris. The White House confirmed early this week that President Obama will travel to Paris for the beginning of the summit, and the Obama administration

has outlined five goals for the talks, saying that a final deal should include ambitious post-2020 domestic climate change plans; a long-term framework to increase the ambition of those plans over time; strong transparency and reporting requirements; a climate finance component that includes public and private financing for low-carbon technology development and climate adaptation; and complementary efforts to reduce emissions from sub-national groups and the private sector.

Ending a seven year waiting period, President Obama rejected the Keystone XL Pipeline November 6, finding that the project would not make a meaningful long-term contribution to the domestic economy, would not reduce gas prices, and would not increase America's energy security, but that it would undercut the United States' global leadership on climate issues. Secretary of State John Kerry had previously informed the president that after significant review, the State Department had determined that approval of the project would not serve the United States' national interests. The agency released [comments last week from seven other federal agencies](#) about the pipeline that informed its rejection. The pipeline was proposed to carry 800,000 barrels of petroleum each day from Canada's tar sands to refineries on the Gulf Coast. After TransCanada asked the U.S. government to suspend its review of the project November 2, the United States denied its request two days later, preventing the review from resuming under the next presidential administration.

CONGRESS

Vehicle Bill GHG Credit Concerns

California Air Resources Board Chair Mary Nichols sent a letter to members of the House Energy and Commerce Committee October 29 expressing concerns about a draft bill on vehicle and roadway safety technology that the House Energy and Commerce Subcommittee on Commerce, Manufacturing, and Trade took up October 21. Chair Nichols charges that emissions credits for advanced automobile safety and connected vehicle technologies proposed in the measure would reduce the effectiveness of national greenhouse gas emissions standards and undermine California's authority to set its own standards.

Federal Coal Program Reform

Eight senators, including Senators Maria Cantwell (D-WA), Al Franken (D-MN), Martin Heinrich (D-NM), Ed Markey (D-MA), Jeff Merkley (D-OR), Patty Murray (D-WA), Elizabeth Warren (D-MA), and Sheldon Whitehouse (D-RI), sent a [letter](#) November 2 to the Interior Department urging the agency to reduce greenhouse gas emissions and increase royalties from the federal coal program in advance of the global climate negotiations in Paris. About 40 percent of domestic coal is produced on federal lands, and roughly 14 percent of all energy-related U.S. CO2 emissions come from federal coal.

CAA Tweak

Representatives Fred Upton (R-MI), Tim Murphy (R-PA), and Ed Whitfield (R-KY) sent a [letter](#) November 2 accusing the Environmental Protection Agency of blocking a technical tweak to the Clean Air Act to avoid weakening its legal argument for the Clean Power Plan. The members are seeking documents and communications related to the Office of Law Revision Counsel's work on the Clean Air Act.

RFS Review Hearing

Congressional Budget Office senior adviser Terry Dinan testified before the House Science Subcommittees on Oversight and Environment November 3 that repealing the Environmental Protection Agency's Renewable Fuel Standard would have little impact on food prices and only a small effect on transportation fuel prices.

Ozone Rule Opposition

Senator Jeff Flake (R-AZ) said November 4 that he would introduce a resolution under the Congressional Review Act disapproving of the Environmental Protection Agency's ozone standards soon. His measure will join policy riders and standalone legislation (S. 751, H.R. 1388) as efforts to stall or stop the ozone rule, which the agency finalized October 1.

RFS Letter

A bipartisan group of 184 House members sent a letter November 4 to the Environmental Protection Agency asking it to avoid breaching the blendwall in its 2014-2016 Renewable Fuel Standard volume requirements. The group contends that the proposed 2016 requirements would breach the blendwall because sales of higher blend E15 and E85 fuels will not grow quickly enough. The agency will finalize the standards by November 30.

PURPA Hearings Requested

Senator Lisa Murkowski (R-AK) and Representatives Fred Upton (R-MI) and Ed Whitfield (R-KY) sent a [letter](#) November 6 to the Federal Energy Regulatory Commission asking it to host a technical conference on how it implemented the Public Utility Regulatory Policies Act. The group contends that power markets and the energy industry are very different now than when the law was signed in 1978 and amended by the Energy Policy Act in

2005 and is interested to see an examination of the commission's treatment of energy imbalance markets, mandatory purchase obligations, and avoided cost rates.

Legislation Introduced

Representative Glenn Thompson (R-PA) introduced legislation (H.R. 3881) November 3 to amend the Mineral Leasing Act to repeal provisions relating only to the Allegheny National Forest.

Senator Jeff Merkley (D-OR) led six of his colleagues in introducing November 4 legislation (S. 2238) to prohibit drilling in the outer Continental Shelf and prohibit coal leases on Federal land.

Senators Bernie Sanders (I-VT), Martin Heinrich (D-NM), and Tammy Baldwin (D-WI) introduced legislation (S. 2242) November 4 to repeal section 3003 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015.

Representative Richard Hudson (R-NC) introduced legislation (H.R. 3923) November 4 to provide for a report that develops recommended United States energy security valuation methods.

Senator Tom Udall (D-NM) led four of his colleagues November 5 in introducing legislation (S. 2254) to modify the requirements applicable to locatable minerals on public domain land.

Representative Leonard Lance (R-NJ) introduced legislation (H.R. 3941) November 5 to provide for emergency preparedness for energy supply disruptions.

Representative Scott Peters (D-CA) introduced legislation (H.R. 3983) November 5 to provide for a report on the role of incubators and accelerators in the commercialization of federally funded research and regional economic development.

Upcoming Hearings

The Senate Energy and Natural Resources Committee will hold a hearing November 19 to receive testimony on the well control rule and other regulations related to offshore oil and gas production.

ADMINISTRATION

Nuclear Plan

During a November 6 nuclear energy summit, the White House stressed the importance of maintaining nuclear energy in the United States as a clean energy and climate change mitigation solution even as the industry faces premature closures due to economic challenges. The administration particularly thinks that nuclear energy is helpful as states develop compliance plans under the Environmental Protection Agency's Clean Power Plan. The White House also released a [fact sheet](#) outlining a series of nuclear energy initiatives the Department of Energy will undertake to help the industry develop advanced nuclear reactor technologies.

DEPARTMENT OF COMMERCE

Climate Change and Extreme Weather

The National Oceanic and Atmospheric Administration released a [study](#) November 5 finding that climate change and human activities impacted extreme weather events across the globe last year.

DEPARTMENT OF ENERGY

Nuclear Capacity Increasing

The Energy Information Administration [forecasted](#) November 3 a net increase of 2,600 MW of domestic nuclear capacity added by 2020, despite recent reactor closures. Eight reactors are in the process of decommissioning or have announced plans to close within the next four years, and five reactors are expected to be added by 2020.

Energy Innovation Focus

Department of Energy Office of Energy Systems and Policy Director Melanie Kenderdine told a Massachusetts Institute of Technology Women in Clean Energy Symposium November 5 that the United States will emphasize the need for energy innovation funding at the global climate negotiations in Paris. The agency is seeking funding for this very thing because she contends that innovation is the only way to reduce the current trajectory of warming by 3.5-5.2 degrees Celsius by 2100 to the safer 2 degrees Celsius goal.

ENVIRONMENTAL PROTECTION AGENCY

Populations Support CPP

The Yale School of Forestry and Environmental Studies published a [report](#) November 2 finding that 61 percent of

the public in states whose attorneys general filed lawsuits opposing the Environmental Protection Agency's Clean Power Plan support the policy. Of the 26 states that have filed suit against the standard, in only three – North Dakota, West Virginia, and Wyoming – do less than 50 percent of the population support the standards.

Power Plant Rules Defended

Eighteen states joined the Environmental Protection Agency November 4 in defending the Clean Power Plan against lawsuits brought by several other states and industry groups. Another 16 filed a similar motion in the U.S. Court of Appeals for the District of Columbia Circuit the same day to defend the agency's new source performance standards for new power plants. Several environmental and public health organizations filed motions the previous week to intervene on the agency's behalf.

Boiler MACT

The Environmental Protection Agency published a [final rule](#) November 5 revising its air toxics standards for major source boilers to include alternative work practice standards during boiler startup. The boiler MACT update was promulgated to address industry concerns in advance of the January 2016 compliance deadline under the standards.

Emergency Emissions Overrides

The Environmental Protection Agency proposed a [rule](#) November 6 allowing Tier 4 stationary engine manufacturers to give engine operators the ability to temporarily override an automatic shutdown feature that activates when pollution controls are not operating properly. The move would ensure that engines are not automatically limited or shut down in emergency situations during which power is needed to protect human life. Comments are due December 21.

GOVERNMENT ACCOUNTABILITY OFFICE

Climate Health Risk Guidance

The Government Accountability Office released a [report](#) November 3 finding that the Centers for Disease Control and Prevention needs to improve its communication to state and local health departments about the public health risks posed by climate change. The report concluded that the Department of Health and Human Services could issue its final climate change communication and outreach strategy by next July, which it would then use to develop its own guidance to state and local health officials.

NUCLEAR REGULATORY COMMISSION

80-Year Reactor Guidance

The Nuclear Regulatory Commission announced November 6 that it plans to issue two draft guidance documents next month to begin formalizing long-standing research the agency has completed on reviewing nuclear reactor life beyond 60 years. Dominion announced the same day that it will apply for a second 20-year license renewal on a pair of nuclear reactors in Virginia, becoming the first electric utility to do so.

INTERNATIONAL

Chinese Emissions

During Eco-Expo Asia in Hong Kong October 29-30, China announced that it would officially adopt its 13th Five-Year Plan at the annual National People's Congress meetings in March. It and a China 2025 Manufacturing Plan released earlier this year will be the major drivers for emissions reductions and industrial transformation. Later in the week, China's National Bureau of Statistics released its 2015 Statistical Yearbook, finding that the world's largest emitter consumed about 4.1 billion MT of coal in 2012, about 591 million MT more than previously reported, increasing its reported emissions. The country announced last year that it would limit coal consumption to roughly 4.2 billion MT by 2020.

India on Climate

India's junior finance minister Jayant Sinha said November 2 that climate change is the top threat to the world's fastest growing major economy as unpredictable monsoon rains cause distress in the agriculture sector, which employs more than half of the country's billion-plus population.

Corporate Climate Contribution

PricewaterhouseCoopers and the World Business Council for Sustainable Development [published a report](#) November 3 finding that independent private industry action could realize up to 65 percent of the emissions reductions necessary to keep global warming to two degrees Celsius or below. More than 140 businesses have met and developed over the past year nine sector-specific action plans, including \$5-10 trillion in low carbon investments by 2030, creating 20-45 million jobs.

Corporations Improve on Climate

CDP released a [report](#) November 4 finding that as governments prepare to sign a global climate agreement at the end of the year, the corporate landscape has significantly changed since the last time an international accord was attempted in Copenhagen at the end of 2009. For example, less than half of companies actively worked to reduce their carbon footprint in 2010; now ninety percent do. More companies are setting absolute or intensity based greenhouse gas goals, companies are increasingly offering rewards to employees if those targets are met, and they are putting climate change on their senior leadership agendas.

Montreal Protocol Meeting

During the 27th Meeting of the Parties to the Montreal Protocol in Dubai November 5, participating countries agreed to phase down hydrofluorocarbons by amending the protocol in a series of meetings next year. HFCs can warm the atmosphere up 12,000 times more than a comparable amount of CO₂.

Support for Global Climate Agreement

The Pew Research Center released November 5 the results of a [poll](#) finding that there is global consensus that climate change is happening and that a majority of people in every country surveyed support international action to reduce greenhouse gas emissions through a United Nations agreement. Over half of the population in 39 of 40 countries surveyed thinks that climate change will directly impact them. African and Latin American countries are more concerned about climate change than other regions, while China and the United States worry the least about it.

TPP Update

According to details released November 5, the updated environment chapter of the Trans Pacific Partnership calls on participating nations to “strive to ensure” that their environmental laws provide high levels of protection. The chapter includes a section focusing on the transition to low emissions and resilient economies and encourages countries to cooperate on energy efficiency, low emissions technology development, alternative energy sources, and sustainable infrastructure development.

RE Growth

The World Resources Institute released a [report](#) November 5 finding that renewable energy production is expected to more than double between 2012 and 2030 in eight economies, Brazil, China, the European Union, India, Indonesia, Japan, Mexico, and the United States, accounting for 65 percent of the world’s energy use. The institute estimated that renewable energy production would increase to 19,900 TWh/year by 2030, more than twice the 8,900 TWh/year produced by renewable energy in 2012.

Green Climate Fund Projects

The Green Climate Fund received an approval from its board November 6 to fund its first projects. The fund will provide \$168 million to eight projects to help developing countries adapt to climate change. The projects will receive additional funding from private investors and the United Nations agencies for a total cost of \$624 million, though it may generate as much as \$1.3 billion in investments over the next five years.

INDCs Halfway to Goal

The United Nations Environment Program released its [Emissions Gap Report](#) November 6 finding that the Intended Nationally Determined Contributions submitted this year would take the world about halfway to the level needed to keep global warming to within 2 degrees Celsius by the end of the century. The report found that the INDCs would reduce greenhouse gas emissions by 4-6 GT CO₂e a year by 2030 compared to a business as usual trajectory.

Pre-COP21 Meeting

France hosted a pre-COP21 [meeting](#) in Paris November 8-10 to bring 75 ministers and heads of delegations together to discuss the 55 page draft text and talk about issues ranging from how to mitigate climate change to providing financial aid to developing nations for post 2020 adaptation efforts. French Foreign Minister Laurent Fabius, who will serve as president of the Paris talks said November 6 that he would seek a legally binding and differentiated climate agreement in Paris that holds global warming below 2 degrees Celsius, and if possible 1.5 degrees Celsius.

STATES

CA Fuel Standards Challenged

POET LLC filed a lawsuit in the California Superior Court October 30 against the California Air Resources Board challenging the re-adoption and revision of rules implementing the state’s low carbon fuel standard and an associated measure for alternative diesel fuels. The ethanol producer is alleging multiple violations of the California Environmental Quality Act and state Administrative Procedure Act.

RGGI Stakeholder Meeting

The Regional Greenhouse Gas Initiative will hold its first stakeholder meeting November 17 as part of a regular quadrennial program review. Stakeholders, including electric power companies, environmental organizations, and others, will provide guidance on compliance with the Clean Power Plan.

MISCELLANEOUS

Additional GHG Reductions

Climate Advisers released a [report](#) November 2 finding that more public and private investment in renewable energy and energy efficiency as well as more forest protection and hydrofluorocarbon reductions could reduce an additional 21 GT of greenhouse gas emissions a year by 2030.

Goldman Sachs Clean Energy Goals

Goldman Sachs announced November 2 that it has set a goal of arranging financing or investments in \$150 billion worth of clean energy projects by 2025 in an effort to harness market-based solutions to address climate change. The new target nearly quadruples the \$40 billion goal the investment bank set in 2012. The bank also plans to spend \$2 billion to make its operations more environmentally friendly and will work to get all of its own electricity from renewable sources by 2020.

Support for GHG Reduction

The Pew Research Center released poll [results](#) November 5 finding that as preparations are under way for global climate negotiations in Paris, people around the world generally agree on the need to curb greenhouse gas emissions, but countries that emit the most CO2 per person are the least worried about climate change.

RE Crowdfunding

A presentation at the Renewable Energy Crowdfunding conference in London November 5 found that crowdfunding is being used to make renewable energy purchases. Green energy supporters contend that if you paid for the energy, you are not likely to be upset that it is near your house, and crowdfunding has raised \$180 million across the world to develop 300 clean energy projects.

Clean Energy Economy

NextGen America released a [report](#) November 9 finding that the American economy can convert to clean energy using existing technology and increase the United States gross domestic product by \$145 billion, or 0.6 percent, by 2030. The report found that transitioning to a clean energy economy would create more than a million additional jobs by 2030 and up to 2 million jobs in 2050 across the country, including 1.2 million additional jobs in the construction sector. It estimates that the transition would increase household disposal income by \$350-\$400 in 2030 and by as much as \$650 in 2050, and would save families \$5.3 billion on energy bills in 2030 and \$41 billion in 2050.

* * *

View ML Strategies professionals.

Boston · Washington www.mlstrategies.com