



## ML Strategies Update

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## Energy & Environment Update

### ENERGY AND CLIMATE DEBATE

President Obama released his fiscal year 2016 [budget request](#) February 2.

In his \$4 trillion budget request, President Obama recommitted to his climate change agenda, offering new incentives for states to reduce their reliance on coal fired power; providing \$500 million for the Green Climate Fund, part of a \$1.29 billion request for the Global Climate Change Initiative, and the first budget request aimed at achieving President Obama's multi-year \$3 billion pledge toward the fund; investing \$400 million to map flood risks; providing \$200 million for the Department of Agriculture to plan for extreme weather events, funding for coastal, drought, and wildfire resilience programs; and setting the stage for a budget fight with Congressional Republicans, who have little appetite for climate spending and will spend significant effort working to overturn related regulations, such as the Environmental Protection Agency's recent Clean Power Plan proposal. The budget makes the case that the United States has already incurred more than \$300 billion in "direct costs due to extreme weather and fire alone."

The fiscal year 2016 budget request provides \$29.9 billion for the Department of Energy, an increase from the \$27.3 billion enacted for the department in fiscal year 2015. The agency would receive about 75 percent of the overall \$7.4 billion requested for clean energy technology programs. The request includes more than \$250 million in discretionary spending to support seven new manufacturing facilities and \$1.9 billion in mandatory spending to fund the other 29 manufacturing institutes in the network of Department of Agriculture, Commerce, Defense, and Energy facilities. Once again, the budget does not provide funding for the Yucca Mountain nuclear waste repository, though the Nuclear Regulatory Commission still has about \$4 million to carry out review activities.

The Environmental Protection Agency's fiscal year 2016 budget request is \$8.6 billion, a \$500 million increase over the current year's enacted level. The largest area of increase includes \$239 million for the agency's climate initiatives, with \$25 million for helping states craft state implementation plans under the Clean Power Plan and a \$4 billion Clean Power State Incentive Fund to help states that want to go beyond the rules' minimum requirements. Two areas would see budget reductions: \$54 million less for clean water and drinking water state revolving funds, and \$20 million less for the diesel emissions reduction grant program.

The Department of Interior would receive \$13.2 billion under the president's fiscal year 2016 budget request, an eight percent increase over the enacted \$12 billion 2015 level. Funding includes about \$100 million for agency programs to review and permit new renewable energy projects on federal land and waters and \$50 million for a climate resilience program.

Regarding energy-related tax incentives, the budget request seeks to make permanent the renewable energy production tax credit and investment tax credit at the same time it plans to reduce more than \$4.1 billion in oil and gas tax incentives, including repealing intangible drilling costs, the Section 199 manufacturing tax credit, and several coal tax deductions totaling \$295 million. The budget request suggests reviving a nuclear utility tax that would raise more than \$2 billion over ten years to pay for cleanup at three former weapons production and uranium enrichment sites under the Uranium Enrichment Decontamination and Decommissioning Fund. The budget would modify and permanently extend the deduction for energy efficient commercial building property; provide a carbon dioxide investment and sequestration tax credit; provide additional tax credits for investment in qualified property used in a qualifying advanced energy manufacturing project; extend the tax credit for second generation biofuel production; provide a tax credit for the production of advanced technology vehicles; provide a tax credit for medium- and heavy-duty alternative-fuel commercial vehicles; modify and extend the tax credit for the construction of energy-efficient new homes; and reduce excise taxes on liquefied natural gas to bring it into parity with diesel fuel.

The Federal Energy Regulatory Commission requests \$319.8 million for its fiscal 2016 budget, a five percent increase from 2015 spending. The Nuclear Regulatory Commission requests \$1.0322 billion for its fiscal year 2016 budget, a 1.7 percent increase from 2015 levels.

After a long debate process during which senators offered 247 amendments, about 40 of which received a vote, the Senate approved January 29 legislation (S. 1) to support the construction of the Keystone XL pipeline. Nine Democrats joined their Republican colleagues in approving the measure 62-36, five votes short of the 67 needed to override a presidential veto. President Obama also already issued a veto threat for the legislation, as well as for similar language (H.R. 3) the House passed earlier last month. Should the president veto the legislation, the legislation's sponsor, Senator John Hoeven (R-ND) is considering attaching the bill to another piece of legislation that the president would not veto, including a broader energy bill or an appropriations measure. The House will either take up the Senate bill or the two chambers will conference the two measures as early as next week.

Eight agencies have until the end of today to comment to the Department of State on whether allowing the Keystone XL pipeline to go forward is in the national interest. The Environmental Protection Agency and the Departments of Energy and Interior are expected to offer comment, and the State Department has said that it would not release other agencies' comments on the pipeline's merits.

The House passed legislation ([H.R. 351](#)) January 28 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. The Senate Energy and Natural Resources Committee held a hearing on Senator Barrasso's measure last week, and committee Chair Lisa Murkowski (R-AK) said that she plans to move on the measure by August.

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, there are opportunities to attach tax legislation in the coming months, but 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. The House Ways and Means Committee will vote on seven expired tax provisions February 4 in an effort to make permanent certain benefits related to conservation easements, business expensing, and others. New Chair Paul Ryan (R-WI) has not yet announced plans to take up any of the other roughly 50 tax provisions that expired at the end of 2014. Senate Finance Committee Chairman Orrin Hatch (R-UT) has not said when he will move to tax extenders, but he hopes to tackle tax reform first, and to continue working in a bipartisan manner with Ranking Member Ron Wyden (D-OR).

## CONGRESS

### EPW Committees

Senate Environment and Public Works Committee has announced new subcommittees under new Chair James Inhofe's (R-OK) tenure. The Subcommittees on Green Jobs and the New Economy and Oversight no longer exist, as the committee consolidated legislative jurisdiction into four subcommittees. The Superfund, Waste Management, and Regulatory Oversight Subcommittee replaces the Superfund, Toxics, and Environmental Health Subcommittee. The Subcommittee on Water and Wildlife is now the Subcommittee on Fisheries, Water, and Wildlife.

### RFS Legislation Forthcoming

Representative Bob Goodlatte (R-VA) will reintroduce this week the RFS Reform Act. The measure would cap the amount of ethanol allowed in gasoline at 10 percent and eliminate the conventional ethanol blending mandate, but

leave the requirement for petroleum refiners to blend advanced biofuels into the fuel supply. Representatives Goodlatte, Peter Welch (D-VT), and others sent a Dear Colleague letter January 26 urging reform of the renewable fuel standard and seeking cosponsorships.

### **Udall Climate Comments**

Senator Tom Udall (D-NM), ranking member on the Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies, said January 28 that Democrats will work with Republicans on funding the Environmental Protection Agency and other agencies but will defend environmental regulations and climate initiatives. He expressed optimism that the upper chamber will be able to come to an agreement on reforming the Toxic Substances Control Act, and he continues to work with Senator David Vitter (R-LA) on crafting bipartisan language.

### **Climate Oversight**

The House Natural Resources Committee announced January 28 that it will include climate change in its list of subjects meriting oversight activity. Ranking Member Raul Grijalva (D-AZ) raised the issue as a proposed amendment to the committee's oversight plan.

### **Legislation Introduced**

Representative Tom Reed (R-NY) introduced January 22 the Defense of Property Rights Act (H.R. 510). The measure would grant property owners impacted by New York's fracking ban rights to sue the state and federal governments for compensation.

### **Upcoming Hearings**

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**

### **Flood Risk Planning**

President Obama signed January 30 an [executive order](#) that directs federal agencies to use a more stringent standard for measuring the flood risk of federally funded projects based in part on climate science.

## **DEPARTMENT OF ENERGY**

### **Gas-Fired Hearths**

The Department of Energy issued a [notice of proposed rulemaking](#) January 28 proposing to end the sale of hearth equipment with gas pilot lights that burn in standby mode. The agency will accept public comment on the proposed rule for 60 days after its publication in the Federal Register.

## **DEPARTMENT OF INTERIOR**

### **Offshore Lease Sale**

The Bureau of Ocean Energy Management held its fourth competitive acreage [lease](#) sale for offshore wind energy in waters off the coast of Massachusetts January 29. Offshore MW LLC and RES Americas Inc. were the provisional winners of two lease areas, with winning high bids totaling \$448,171. The total acreage of the two areas nearly doubles the amount of acreage leased for wind energy through competitive sales. If fully developed, the leased areas could support about two GW of commercial wind-generated electricity. Two other lease areas did not receive bids.

## **ENVIRONMENTAL PROTECTION AGENCY**

### **Paris Climate Optimism**

The Environmental Protection Agency Administrator Gina McCarthy told the National Council for Science and Environment January 27 that she is optimistic about the possibility of reaching an international climate agreement in Paris. Negotiations will continue throughout the year in advance on the November 30-December 11 conference, at which more than 190 countries will participate.

### **Diesel Exhaust Exposure**

The Health Effects Institute, funded by the Environmental Protection Agency, the Department of Energy, and industry groups, released a [study](#) January 27 finding that long term exposure to emissions from cleaner diesel engines found no evidence of increased lung cancer risk associated with exposure. Laboratory rats were exposed

to emissions from diesel engines compliant with 2007 agency standards for 80 hours a week for up to 30 months.

### **Land Reuse**

Mustafa Ali, acting senior adviser to the Environmental Protection Agency Administrator for Environmental Justice said January 29 that communities should be a principle driver in their revitalization after coal-fired power plants close. Residents can apply federal funding from Environmental Protection Agency Small Grants to Transportation Department TIGER grants to support their efforts.

### **CPP Interim Goals**

During a January 29 Bipartisan Policy Center forum, power companies and state regulators said that the Environmental Protection Agency's Clean Power Plan requires front load emissions reductions and fails to account for already-achieved reductions. The states and utilities argue that the agency may need to adjust its interim deadlines or revise its emissions rates for states to comply with the targets.

### **Coal Ash Compliance**

The Environmental Protection Agency announced January 30 that it would give power plant owners and operators 18 more months to prepare plans for closing their coal ash ponds and landfills so that they may coordinate with actions that will be required in upcoming effluent limitation guidelines under development for their sector. The agency is under a court-ordered deadline to finalize wastewater effluent limitation guidelines from 1,200 power plants by September 30.

### **Argentine Biodiesel**

Biodiesel makers led by the National Biodiesel Board sent a [letter](#) to Environmental Protection Agency Administrator Gina McCarthy January 30 expressing concern that the Environmental Protection Agency is allowing biodiesel imports from Argentina while failing to update the renewable fuel standard, which encourages domestic production. The agency cleared more Argentine soybean biodiesel imports January 27.

## **FEDERAL ENERGY REGULATORY COMMISSION**

### **Order 745 Case**

The Federal Energy Regulatory Commission and EnerNOC Inc. filed petitions January 15 asking the Supreme Court to review the U.S. Court of Appeals for the District of Columbia Circuit May 2014 decision striking down Order 745. The Energy Power Supply Association's responses are due February 17. The program regulates demand-response services in the wholesale electricity market.

### **CPP Carbon Market Difficulty**

Federal Energy Regulatory Commission Chair Cheryl LaFleur told the National Press Club January 27 that carbon markets like the Regional Greenhouse Gas Initiative and California's trading scheme have been fairly successful but that states contemplating the formation of new markets to comply with the Environmental Protection Agency's proposed Clean Power Plan may find the process difficult.

## **INTERNATIONAL**

### **Chinese Biodiesel**

China's National Energy Administration issued January 23 a biodiesel industry development plan and called on provincial governments to support the industry as it works to produce cleaner fuels and use recycled oils in an attempt to reduce pollution and waste. Foreign companies are encouraged to participate in the industry, and technologies that convert waste oil into biodiesel will be required within two years to meet new methanol standards, as well as standards related to the amount of freshwater required, overall energy consumption, and byproduct and waste discharge.

### **Chinese Coal Production**

The China Coal Industry Association released an initial estimate January 23 finding that China's coal production has dropped for the first time since 2000, a 2.1 percent decline in the first 11 months of 2014 compared with the same period a year before. The nation set in the fall a goal to peak CO2 emissions around 2030 and reduce the amount of coal accounting for primary energy consumption to less than 62 percent by 2020.

### **EU Decarbonization Plan Forthcoming**

The European Commission will publish a strategy February 25 outlining the legislative measures needed to deliver the European Union's decarbonization program through 2030. The bloc set a goal last fall to achieve a 40 percent greenhouse gas emissions reduction by 2030 relative to 1990. The bloc aims also to obtain 27 percent of its energy

from renewable sources and 27 percent energy efficiency savings relative to current business as usual projections by 2030.

## STATES

### FL Solar to Double

Florida Power & Light announced last week that it has found a cost effective way to expand solar power in Florida and has proposed to install the systems at three sites in its service area. The utility will add 225 MW solar power to the state's current 229 MW by the end of the year in Manatee, DeSoto, and Charlotte counties.

### PA Fracking Ban

Pennsylvania Governor Tom Wolf (D) signed an [executive order](#) January 29 banning new leases for oil and gas development in state parks and forests. Order No. 2015-3 rescinded a May 2014 order by former Governor Tom Corbett (R) lifting a prior ban from Governor Ed Rendell (D) in 2010. A 2012 legislative ban already prohibits fracking in the southeastern part of the state until 2018, and a 2010 Delaware River Basin Commission ban covers Eastern parts of the state. More than 673,000 acres of state forestland are already open to oil and gas development through state-issued leases or privately owned mineral rights.

## SUSTAINABILITY

### Sustainable Companies

Corporate Knights, the Magazine for Clean Capitalism, released a [list](#) January 21 during the World Economic Forum in Davos of the Global 100 Most Sustainable Corporations of the World. The group reviews companies to determine which are making the best use of resources, maximizing employee performance, and getting the most out of their capital. Corporate Knights evaluates energy use, emissions, water use, and waste generation as well as a company's financial sustainability and its management practices.

### Supply Chains Unprepared

CDP, formerly the Carbon Disclosure Project, and Accenture released January 27 results of a [study](#) finding that corporate supply chains in the United States are among the least prepared for climate risks, including droughts, floods, and sea level rise, compared to those in other parts of the world. The study found that those same companies have done relatively little to mitigate the risks, with limited appetite for cooperation with others in the value chain. The report cited the country's light regulatory touch as cause for inaction.

## MISCELLANEOUS

### Dangerous Fracking

Environment America released a [report](#) January 27 finding that fracking is too dangerous to be worth the risks even when strict regulations are in place and companies avoid violations. Tallying violations in Pennsylvania from January 2011 through August 2014, the group found an average of 1.5 violations per day over that period by the top 20 offending firms, and said that the number is probably low because it alleges that state regulators generally conducted fewer inspections than required and would sometimes not issue notices if a company agreed to fix a problem.

### Wind Capacity Increase

The American Wind Energy Association released a [report](#) January 28 finding that wind turbine installations in the United States more than quadrupled in 2014, as developers took advantage of an expiring federal tax credit. Developers completed 4,850 MW of wind farms, up from 1,087 MW that went into service in 2013. More than 1,100 MW were installed in Texas alone. The country now has more than 65 GW of wind power capacity, second to China's 96 GW. More than 12,700 MW of capacity were under construction at the end of the year, the majority located in Texas.

### Biofuel Production Inefficient

The World Resources Institute issued a [report](#) January 29 finding that turning corn and sugar into energy is inefficient and crowds out land that could be better used to produce food. The nonprofit recommends that governments phase out biofuel subsidies and limit the amount of ethanol that must be blended with gasoline. The report concluded that using biofuels to meet 20 percent of the world's energy by 2050 would require harvesting twice as much plant material as current levels, potentially widening the gap between what is needed to feed the globe and what is grown. As a comparison, sugarcane ethanol converts about 0.2 percent of sunlight into energy;

solar panels can generate more than 100 times the usable energy per hectare.

### **Shell Climate Reporting**

Royal Dutch Shell PLC recommended January 29 that investors vote in favor of a shareholder [resolution](#) that asks the company to report annually on how it is preparing its business model for potential climate change risks. Shareholders will vote on the resolution at the annual meeting.

### **Emissions Reporting Standards**

Companies and nongovernmental organizations said January 30 that updated corporate emissions reporting guidelines from the Greenhouse Gas Protocol, the [GHG Protocol Scope 2 Guidance](#), could help pressure electricity suppliers to provide better data and more clean energy options. The guidance covers emissions from purchased electricity, steam, heat, and cooling, and currently requires companies and other organizations to include two emissions totals in their reporting. The groups urge one emissions count to be location based, and another to be market based.

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