



ML Strategies Update

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Energy & Environment Update

ENERGY AND CLIMATE DEBATE

The House returns from a weeklong recess today and joins the Senate in facing a full schedule the next two weeks before departing for the holiday recess.

Committees in both chambers will hold more than 30 fiscal year 2016 appropriations hearings, while the upper chamber will consider nominations and the Justice for Victims of Trafficking Act of 2015 (S. 178) and the lower chamber will begin its week addressing six bills (H.R. 639; 647; 648; 284; 876; and 1191) and on its suspension calendar before moving on to debate the EPA Science Advisory Board Reform Act of 2015 (H.R. 1029), the Secret Science Reform Act of 2015 (H.R. 1030), and other measures. Committees in both the House and Senate will hold several energy and environment hearings of note; see more details below.

The tax reform debate is expected to continue in the coming days, weeks, and months, though it is becoming increasingly likely that comprehensive tax reform may be too difficult a lift this year. If Congress is unable to come to an agreement on tax reform, we will turn increasingly to tax extenders as we near the end of the year. The Senate Finance Committee's working groups on tax reform will meet weekly through the end of May, with reports and recommendations due to Chairman Orrin Hatch (R-UT) and Ranking Member Ron Wyden (R-OR) in the last week of that month. The working groups have been instructed to prepare for and conduct roundtable presentations, aiming for five sessions. Prior to that, the groups are planning weekly education sessions. The Finance Committee has also prepared a detailed list of topics for the groups, including such items as tax rates for individuals and pass-through entities, cost recovery and accounting, base erosion, foreign tax credits, disaster relief, and tribal issues. Senators Hatch and Wyden requested March 11 [public input](#) from individuals, businesses, organizations, and advocacy groups into the committee's tax reform working groups: individual income tax, business income tax, savings and investment, international tax, and community development and infrastructure. Comments will be accepted through April 15. Two of the working groups are claiming jurisdiction over energy tax provisions.

The White House Council on Environmental Quality confirmed March 11 that former National Park Service official Christy Goldfuss will assume the acting chair position today, replacing Mike Boots, who announced his departure in January. Ms. Goldfuss joined the council in February as a senior adviser and becomes today the managing director of the council. She joins Brian Deese, who recently succeeded John Podesta as President Obama's counselor for environmental issues, to become one of the top energy and environmental policy advisers in the White House, along with Dan Utech, the president's special assistant for energy and climate change. It remains unknown who President Obama will formally nominate to lead the council, though the confirmation of any nominee is likely to be a challenge in the Republican-controlled Senate. The council has not had an official chair since Nancy Sutley's departure a year ago.

CONGRESS

Social Cost of Carbon Response

Eleven Republican senators led by Environment and Public Works Committee Chair James Inhofe (R-OK) [asked](#) the Office of Information and Regulatory Affairs March 9 when it would respond to comments on the updated social cost of carbon figure, which the administration is already using. The group, which said that the administration has not responded to public comments on its revised cost solicited more than a year ago, has asked for a response by March 30.

Ozone Rule Cost Questioned

Six Republican senators led by Environment and Public Works Committee Chair James Inhofe (R-OK) sent a [letter](#) to Environmental Protection Agency Administrator Gina McCarthy March 10 questioning the agency's cost estimates for the national ambient air quality standard for ozone. The group believes that the agency underestimates the real cost of the standard, pointing to a recent National Association of Manufacturers study.

EPW CPP Hearing

The Senate Environment and Public Works Committee held a hearing March 11 to examine state perspectives on the Environmental Protection Agency's proposed Clean Power Plan. Witnesses included Public Service Commission of Wisconsin Chair Ellen Nowak, Wyoming Department of Environmental Quality Director Todd Parfitt, Indiana Department of Environment Management Commissioner Thomas Easterly, California Air Resources Board Chair Mary Nichols, and New York State Attorney General top environmental litigation official Michael Myers. State representatives during the hearing said that the proposed deadlines may not allow sufficient time to make the regulatory and legislative changes necessary to comply with the rule, though some states disagree. During a Georgetown Climate Center forum March 10, representatives from Colorado, Minnesota, New York, and Washington said that the targets are achievable, and CARB Chair Nichols echoed the sentiment during the hearing.

Coal Ash Legislation

Representative David McKinley (R-WV) released [draft legislation](#), the Improving Coal Combustion Residuals Regulation Act of 2015, March 12 to provide more state control over coal ash management. The measure has previously had success in the House, but not in the Senate, and bill supporters are not satisfied with the Environmental Protection Agency's long awaited coal ash regulation, which the agency released in December. Senators John Hoeven (R-ND) and Joe Manchin (D-WV) are working on similar Senate legislation. The House Energy and Commerce Subcommittee on Environment and the Economy will hold a hearing on the measure March 18.

Legislation Introduced

Senate Minority Leader Harry Reid (D-NV) and Senator Dean Heller (R-NV) introduced the Nuclear Waste Informed Consent Act (S. 691) March 10 to require written consent from a host state governor, local governments, and impacted Indian tribes before construction of a nuclear waste repository could be authorized. Representatives Joe Heck (R-NV) and Dina Titus (D-NV) introduced companion legislation (H.R. 1364) in the House March 13.

Senator Chris Coons (D-DE) introduced legislation (S. 701) March 11 to reauthorize the weatherization and state energy programs.

Senators Jeanne Shaheen (D-NH) and Rob Portman (R-OH) reintroduced their energy efficiency legislation (S. 720) March 11. Senate Energy and Natural Resources Committee Chair Lisa Murkowski said the same day that the Energy Savings and Industrial Competitiveness Act may be incorporated into broader legislation in order to have sufficient time to address all of the energy issues on the agenda this Congress. Senator Murkowski outlined a broad energy bill in January that she hopes to move forward this year; one of the four main focus areas is energy efficiency.

Senator Brian Schatz (D-HI) introduced legislation (S. 723) March 12 to allow federal agencies to enter into long term contracts with utilities for energy saving services. The Utility Energy Service Contracts Improvement Act of 2015 clarifies existing law that permits federal agencies to enter into such contracts of up to 25 years so long as certain conditions are met.

Senator Angus King (I-ME) introduced legislation (S. 727) March 12 to amend the Internal Revenue Code of 1986 to include biomass heating appliances for tax credits available for energy efficient building property and energy property.

Senator Dick Durbin (D-IL) introduced legislation March 16 to invest about \$100 billion over ten years in basic research programs across the federal government. The American Innovation Act would lift the current budget caps and increase funding by five percent plus inflation for programs such as the Department of Energy's Office of Science, the National Science Foundation, the Department of Defense's Science and Technology Programs, the

National Aeronautics and Space Administration's Science Directorate, and the National Institute of Standards and Technology's Scientific and Technical Research.

Upcoming Hearings

The Senate Energy and Natural Resources Committee will hold a hearing March 17 on the state of technological innovation related to the electric grid.

The House Energy and Commerce Subcommittee on Energy and Power will hold a hearing March 17 entitled "EPA's Proposed 111(d) Rule for Existing Power Plants: Legal and Cost Issues."

The House Appropriations Subcommittee on Energy and Water will hold a hearing March 17 to review Department of Energy applied energy programs. Undersecretary for Science and Energy Franklin Orr, Assistant Secretary for Energy Efficiency and Renewable Energy Dave Danielson, Deputy Principal Assistant Secretary John Kotek, Assistant Secretary for Fossil Energy Christopher Smith, and Assistant Secretary for Electricity Delivery and Energy Reliability Patricia Hoffman will testify.

The House Science Committee will hold a hearing March 17 on the Environmental Protection Agency's proposed ozone standards.

The House Natural Resources Committee will hold a hearing March 17 on the fiscal 2016 budget request of the Bureau of Ocean Energy Management, the Bureau of Safety and Environmental Enforcement, and the Office of Natural Resources Revenue.

The House Appropriations Subcommittee on Energy and Water will hold a hearing March 17 to review Department of Energy science programs. Undersecretary for Science and Energy Franklin Orr and Deputy Science Programs Director Patricia Dehmer will testify.

The Senate Environment and Public Works Committee will hold a hearing March 18 to consider the Frank R. Lautenberg Chemical Safety for the 21st Century Act (S. 697), bipartisan Toxic Substances Control Act legislation from Senators David Vitter (R-LA) and Tom Udall (D-NM). Committee Ranking Member Barbara Boxer (D-CA) is highly opposed to the measure, but introduced last week a separate reform measure (S. 725) with Senator Bernie Sanders (I-VT).

The House Appropriations Subcommittee on Interior and Environment will hold an all day public and outside witness hearing March 18.

The House Appropriations Subcommittee on Energy and Water will hold a hearing March 18 to review Energy Department environmental management. Deputy Undersecretary for Management and Performance David Klaus and Acting Assistant Secretary for Environmental Management Mark Whitney will testify.

The House Energy and Commerce Subcommittee on Environment and Economy will hold a hearing March 18 on Representative David McKinley's (R-WV) draft coal ash bill.

The House Natural Resources Subcommittee on Energy and Mineral Resources will hold a hearing March 18 on the fiscal 2016 budget request and legislative proposals for the Interior Department's Surface Mining office.

The House Appropriations Subcommittee on Commerce, Justice, and Science will hold a hearing March 18 on the National Oceanic and Atmospheric Administration, and which Administrator Kathryn Sullivan will testify.

The House Transportation and Infrastructure Subcommittee on Water and Environment will hold a hearing March 18 on the Environmental Protection Agency's fiscal year 2016 budget request.

The Senate Energy and Natural Resources Committee will hold a hearing March 19 on crude oil exports.

The House Energy and Commerce Subcommittee on Environment and Economy will hold a hearing March 19 on Representative Ed Whitfield's (R-KY) legislation (H.R. 906) exempting certain thermal storage water heaters from Department of Energy efficiency regulations.

The House Natural Resources Subcommittees on Federal Lands and on Water, Power, and Oceans will hold a hearing March 19 on the fiscal year 2016 budget requests for the Fish and Wildlife Service and the National Oceanic and Atmospheric Administration.

ADMINISTRATION

Startup Emissions

The White House Office of Management and Budget announced March 11 that it is reviewing the Environmental Protection Agency's final rule on the inadequacy of state implementation plans with respect to excess emissions during startup, shutdown, and malfunction. The proposed revision would require 38 states to revise their plans and submit corrected plans within 18 months for agency approval. Under a settlement agreement with the Sierra Club and WildEarth Guardians, the agency must issue the final rule by May 22.

DEPARTMENT OF ENERGY

Electric Capacity Additions

The Energy Information Administration released a [report](#) March 10 finding that electric generating companies are expected to add more than 20 GW of generation capacity, primarily wind and natural gas, this year. Wind energy is expected to provide 9.8 GW of new generation, while natural gas will provide 6.3 GW, and solar energy will provide 2.2 GW. About 16 GW of generating capacity is expected to retire this year, 85 percent from eight coal-fired power plant retirements.

Clean Coal Leadership

The Department of Energy announced March 10 that Duke Energy's David Mohler will serve as Deputy Assistant Secretary for Clean Coal and Carbon Management. Mr. Mohler has served as Duke's senior vice president and chief technology officer, and previously served as senior vice president for strategic planning at Cinergy. He will replace Julio Friedmann, who will assume the position of principal deputy assistant secretary for fossil energy.

Wind Report Released

The Department of Energy released March 12 its [Wind Vision: A New Era for Wind Power in the United States report](#), elaborates on a draft circulated last year that considers the future of wind power through 2050 and the associated economic benefits. The report includes a roadmap that identifies necessary actions to realize those economic and social benefits. The report finds that that wind power will be less expensive than electricity from natural gas within a decade, even without the production tax credit, due to cost reductions and technology improvements. Undersecretary for Science and Energy Lynn Orr said during the report's release that wind power could be the cheapest, cleanest power option across all states by 2050 with continued commitment to wind energy. The report concluded that increasing wind energy to 35 percent of domestic electricity supplies by 2050 would cause power prices to decline 2.2 percent and result in \$400 billion in emissions reduction benefits. Wind energy provided 4.5 percent of American power supplies in 2013.

Environmental Justice

Speaking at the Department of Energy's National Environmental Justice Conference and Training Program March 12, Principal Deputy Director for Energy Policy and Systems Analysis Jonathan Pershing said that the agency has worked with low income populations to make their homes and communities more resilient to climate change, but that it could do more to help them mitigate and adapt to climate change impacts.

Furnace Standards

The Department of Energy [proposed](#) March 12 amending energy conservation standards for residential non-weatherized gas furnaces and mobile home furnaces. The proposed standards, expected to be implemented in 2021, are projected to result in cumulative emission reductions of 137 MMT CO₂, 3.424 MMT CH₄, and 816,000 MT NO_x due to switching from gas furnaces to electricity heat pumps and electric furnaces. The agency is considering more stringent energy efficiency levels, but has tentatively concluded that the potential burdens outweigh the projected benefits.

Subsidy Decrease

The Energy Information Administration released a [report](#) at the request of House Energy and Commerce Committee Chair Fred Upton (R-MI) and Energy and Power Subcommittee Chair Ed Whitfield (R-KY) March 13 finding that federal energy subsidies dropped 23 percent between fiscal years 2010 and 2013, declining from \$38 billion to \$29.3 billion. Driven by increased support for wind and solar energy, federal renewable energy subsidies increased \$2.9 billion to \$8.4 billion in fiscal year 2013.

DEPARTMENT OF INTERIOR

Desert RE Plan

The Bureau of Land Management, the U.S. Fish and Wildlife Service, the California Energy Commission, and the California Department of Fish and Wildlife have spent over five years developing an ambitious [Desert Renewable](#)

[Energy Conservation Plan](#), and the group announced March 10 that they will begin working on the first portion of the plan to guide and streamline renewable energy development on 22.5 million acres in the state's desert areas – the Bureau of Land Management element. The plan, which aims to help California and the federal government achieve their goal of bringing 20,000 MW of renewable energy online over the next 25 years, will give federal and state agencies more time to work with the seven impacted counties on issues involving private lands and permitting processes.

DEPARTMENT OF STATE

Costly Fossil Fuels

During a climate change speech at the Atlantic Council March 12, Secretary of State John Kerry called fossil fuels outdated and costly in the long run, but he made no mention of the Keystone XL pipeline.

Arctic Awareness

Retired Admiral Robert Pap Jr., U.S. special representative to the Arctic, said March 12 that the State Department is working on a public diplomacy effort to raise awareness about the rapidly changing Arctic and why it matters. He said that the agency has asked Disney for help, potentially using characters from the movie *Frozen* to teach children about the area.

Climate Pledges Urged

Secretary of State John Kerry urged March 12 states, local governments, and private industry around the world to offer their own pledges to reduce GHG emissions ahead of the United Nations Framework Convention on Climate Change negotiations in Paris at the end of the year. Secretary Kerry said that he is optimistic that the global climate accord, set to include more than 190 nations and enter into force in 2020, will be an important first step toward creating a low carbon economy.

DEPARTMENT OF TREASURY

RE Credit Requirements Eased

The Internal Revenue Service released Notice 2015-25 March 11 easing a requirement for renewable energy projects to demonstrate construction progress, so long as they are producing power before January 1, 2017. The notice updates previous guidance in which credit-eligible projects under tax code Sections 45 and 48 had to show that they were passing continuous construction and effort requirements.

ENVIRONMENTAL PROTECTION AGENCY

Startup Emissions Data Challenged

The Environmental Integrity Project, the Chesapeake Climate Action Network, and the Sierra Club filed a lawsuit early this month in the U.S. Court of Appeals for the District of Columbia Circuit challenging the Environmental Protection Agency's justification for establishing an alternative compliance method for mercury and air toxics standards during power plant startup and shutdown, charging that it conflicts with the SO₂ monitoring requirements of the Acid Rain program. The agency released a rule in November allowing coal and oil fired electric generating units to comply with the 2012 MATS standards by initiating startup using clean fuels and using the maximum amount of clean fuels possible during the entire startup period. The Utility Air Regulatory Group also filed a lawsuit seeking review of the alternative compliance method. The court has consolidated the challenges.

Supreme Court MATS Arguments

The Supreme Court issued an order March 9 extending oral arguments in a case on whether the Environmental Protection Agency was required to consider cost when it determined it appropriate to regulate mercury and other hazardous air pollutants from power plants, which led to the 2012 mercury and air toxics standards. Oral arguments are scheduled for March 25.

Commitment to CO₂ Standards

Speaking to the Council on Foreign Relations March 11, Environmental Protection Agency Administrator Gina McCarthy said that she remains committed to finalizing the CO₂ standards on new, modified, and existing power plants this summer, despite opposition to the proposed standards.

Fine Particular Matter Standards

The Environmental Protection Agency [issued](#) March 12 a proposed implementation rule for the national ambient air quality standards for fine particulate matter. The proposal outlines how state air agencies will meet requirements for 14 nonattainment areas as well as issue new source review permits for new and modified facilities in places that do

not meet the standards. The agency revised in 2012 the annual standard from 15 micrograms per cubic meter to 12 micrograms per cubic meter and retained the existing daily primary standard for fine particulates of 35 micrograms per cubic meter and the daily standard for coarse particles of 150 micrograms per cubic meter. A 60-day public comment period will follow the proposal's publication in the Federal Register.

PJM and CPP

The Analysis Group released a [report](#) March 16 finding that states in the PJM Regional Transmission Organization can meet the Environmental Protection Agency's proposed Clean Power Plan requirements. Recent PJM modeling found that states could meet the proposed targets without reliability problems. PJM is the country's largest competitive wholesale electricity market and includes members of the Regional Greenhouse Gas Initiative, Indiana, Kentucky, West Virginia, and others.

FEDERAL ENERGY REGULATORY COMMISSION

Susquehanna River EIS

The Federal Energy Regulatory Commission released March 11 its final environmental impact statement for relicensing three Susquehanna River hydroelectric projects.

NUCLEAR REGULATORY COMMISSION

New Technology Apps Forthcoming

Nuclear Regulatory Commission Chair Stephen Burns told the Commission's Regulatory Information Conference March 10 that he anticipates that the agency will soon start receiving applications to evaluate and license small modular reactors and other advanced reactor technologies.

INTERNATIONAL

Heat Waves Worsen

The Potsdam Institute for Climate Impact Research published a report in Science March 12 finding that the United States, Europe, and Russia experience longer heat waves because climate change has weakened summer winds that used to carry cool ocean air. The report concluded that rapid Arctic warming disturbs air streams in such a way so as to significantly reduce summer storms, raising the likelihood of heat waves.

Chinese Emissions Drop

Bloomberg New Energy Finance released an estimate March 13 based on preliminary energy demand data from China's National Bureau of Statistics finding that China's CO2 emissions fell last year for the first time since 2001. Chinese emissions dropped two percent, signaling that efforts to control pollution are gaining traction.

Global Emissions Steady

The International Energy Agency released [data](#) March 13 finding that global CO2 emissions from the energy sector remained stable last year, the first time in 40 years that a pause or reduction was not associated with an economic downturn. The agency pointed to China's changing energy consumption as a reason for the steady global emissions.

STATES

CA Computer Efficiency

The California Energy Commission released March 12 proposed efficiency standards for computers, computer monitors, and signage displays that will cost manufacturers about \$2 per unit and return \$69 to consumers via energy savings over the five year life of a desktop computer. The commission calculates that the devices are responsible for five percent of electricity use in the commercial and residential sectors. The standards are the first to be proposed across the country, and will go into effect January 1, 2017. The commission will hold a public comment workshop April 15.

RGGI Auction Record

The Regional Greenhouse Gas Initiative announced March 13 that carbon allowance prices continued to increase in the spring [auction](#), selling for a record \$5.41 high. The 27th auction hit the third record high in the past year, raising \$82.6 million for the nine participating states and selling 100 percent of the allowances. The next auction is scheduled for June 3.

NY RGGI Funds

New York Governor Andrew Cuomo (D) and the State Senate called March 13 for millions of dollars in clean energy funds to be diverted from the Regional Greenhouse Gas Initiative. The program, generally controlled by the New York State Research and Development Authority, provided last year almost \$100 million to support the state's clean energy programs. Governor Cuomo's budget calls for \$36 million to be taken from the program, with \$23 million directed to the general fund and \$13 million for the environmental protection fund, and the Senate requests \$64 million, \$49 million for the environmental protection fund.

MISCELLANEOUS

Solar Market Growth

GTM Research and the Solar Energy Industries Association released a report March 10 finding that the United States added 6.2 GW of photovoltaic solar capacity last year, a 30 percent increase over 2013, bringing the total American market to 18.3 GW. The report concluded that solar contributed 32 percent of new electric generating capacity added last year, behind only natural gas and projected that the industry will add 8.1 GW this year. The United States also brought 767 MW of concentrating solar power online last year, for a total of 1.7 GW.

Clean Energy Revenue Growth

Navigant Research released a [report](#) commissioned by the Advanced Energy Economy March 10 finding that revenue from the advanced energy sector jumped 14 percent from 2013 to 2014 to \$1.3 trillion. The American advanced energy market reached nearly \$200 billion last year, about 15 percent of the global total, with significant growth in the wind, solar, and natural gas turbine sectors.

NRC Report Card

The Union of Concerned Scientists released an [annual report card](#) on the Nuclear Regulatory Commission March 10, finding that the number and severity of nuclear incidents have been steadily declining since it began conducting annual reviews in 2010 but that regulators are inconsistent in enforcing regulations while withholding public information.

RFA on RFS Reform

The Renewable Fuels Association opposed efforts March 11 by advanced biofuel advocates and the oil industry to have Congress overhaul the Environmental Protection Agency's Renewable Fuels Standard. Association CEO Bob Dinneen said that the effort is causing increased and unnecessary uncertainty for the industry, as improvements are possible without legislative action. The Advanced Biofuels Association changed its position the same day, calling for RFS reform due to inconsistent implementation.

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