



## ML Strategies Update

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## Energy & Environment Update

### ENERGY AND CLIMATE DEBATE

After President Obama immediately vetoed – his third veto ever – the Keystone XL Pipeline Act (S.1) upon his receipt of the legislation February 24, the Senate failed, 62-37, to override his veto March 4. Eight Democrats joined all 54 Senate Republicans in supporting the override attempt, but came up shy of the necessary two-thirds of Senators needed to override the veto. Senate Majority Leader Mitch McConnell (R-KY) and other congressional Republicans have indicated that they may try again to pass similar language, potentially as an amendment to must-pass legislation.

Despite weather cutting last week's votes short, both chambers held several budget hearings, and the Senate Energy and Natural Resources Committee held a hearing on Arctic issues. The Senate Committee on Environment and Public Works held a hearing March 4 on the Environmental Protection Agency's fiscal year 2016 budget request at which Administrator Gina McCarthy testified to defend agency programs and during which Committee Chair Jim Inhofe (R-OK) released a critical [assessment](#) of President Obama's budget request, especially the redirection of agency assets.

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 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 late this month, 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. The Joint Committee on Taxation released a report March 6 outlining sources of complexity in the tax code in advance of a Finance Committee hearing this week on ideas to simplify the tax code. Assistant Treasury Secretary for Tax Policy Mark Mazur told the Federal Bar Association Tax Law Conference March 6 that while Congress and the Administration are making progress on tax code overhaul, supporters need the American public to become more interested in the issue in order for it to be successful. He said that we will likely know whether an agreement is possible this year by early summer, and if it cannot be reached in 2015, a deal will have to wait until after the 2016 election cycle is complete.

Among other things, Senate committees will continue budget hearings this week while the House will return from a district work period next week.

## CONGRESS

### House Science Committee Legislation

The House Science Committee reported out legislation (H.R. 1030) February 25 that would make significant changes to the science that the Environmental Protection Agency may use to underlie its regulatory efforts. The secret science reform bill would prohibit the agency from using any scientific studies to establish regulations without releasing all of the underlying data and research for the public to review. The House Science Committee reported out legislation (H.R. 1029) the same day that would allow more industry representatives to join the Environmental Protection Agency's Science Advisory Board panels. President Obama issued veto threats on [both measures](#) March 3. The full House is likely to take up the bills next week.

### Natural Resources Agenda

House Natural Resources Committee Chair Rob Bishop (R-UT) said March 3 that the committee would hold hearings in April to begin reauthorizing and potentially reshaping federal land management programs and surface coal mining regulations. The committee will consider short-term action on the Land and Water Conservation Fund, offshore fisheries management, federal assistance to counties and schools in rural areas, federal forest management, natural gas pipelines, and electric transmission lines that cross federal lands. The committee may play a role in moving the House energy package as well.

### Electric Grid Hearing

The House Energy and Commerce Subcommittee on Energy and Power held a hearing March 3 to discuss manners in which the United States could modernize the country's electric grid to meet the challenges and opportunities of the 21<sup>st</sup> century. Challenges include an aging infrastructure, existing generation resource retirements, declining reserve margins and reduced fuel diversity, intermittent resources integration, and physical and cyber threats. Opportunities include the fact that the nation's utilities plan to invest more than \$60 billion in transmission infrastructure through 2024 and the country's abundant fuel resources and advanced generation, storage, and distribution management technologies.

### Nuclear Waste Legislation Support

During a Senate Appropriations Subcommittee on Energy and Water hearing March 4, Senator Dianne Feinstein (D-CA) encouraged the nuclear power industry to support bipartisan nuclear waste legislation. Senators Feinstein and Lamar Alexander (R-TN), the subcommittee's new chairman, are part of a group working to rewrite the country's nuclear waste policy.

### Legislation Introduced

Senator Jeff Flake (R-AZ) introduced legislation (S. 639) March 3 to require the Environmental Protection Agency to provide funding offsets to any agency that experiences an increase in costs from any proposed Environmental Protection Agency regulation on greenhouse gas emissions.

### Upcoming Hearings

The Senate Environment and Public Works Committee will hold a hearing March 11 to examine state perspectives on the Environmental Protection Agency's proposed Clean Power Plan. Witnesses include 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.

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."

## ADMINISTRATION

### Aircraft Emissions

The White House Office of Management and Budget announced March 3 that it is reviewing the Environmental Protection Agency's proposed endangerment finding for greenhouse gas emissions from aircraft. The agency sent the White House an advance notice of proposed rulemaking March 2 outlining international efforts to regulate aircraft emissions if the agency determines that they endanger the environment. The agency plans to issue the proposals in May in response to petitions brought by environmental groups.

### Climate Consensus

Vice President Joe Biden said March 6 that rejecting the scientific consensus on climate change is "mindless" and like denying that gravity exists.

## DEPARTMENT OF ENERGY

### Budget Request Webinars

The Department of Energy's Office of Energy Efficiency and Renewable Energy held a series of [webinars](#) March 3-5 on its fiscal year 2016 budget request. Deputy Assistant Secretary Reuben Sarkar led a sustainable transportation webinar March 3. Deputy Assistant Secretary Kathleen Hogan led an energy efficiency webinar March 4. Deputy Assistant Secretary Doug Hollett led a renewable energy webinar March 5.

### State Emissions

The Energy Information Administration released [data](#) March 4 showing state-by-state CO2 emission levels from 2012.

### Energy-Water Consortium

As part of a new technical track at the US-China Clean Energy Research Center, the Department of Energy released a [funding opportunity announcement](#) March 5 for the formation of a [consortium](#) to conduct research and development on five issue areas pertaining to the energy-water nexus. The countries will equally fund the \$50 million initiative intended to improve climate impact modeling, methods, and scenarios to support improved energy and water systems understanding, efforts to reduce thermoelectric plant water usage, improve hydropower designs, and improve water management. The agency will hold an informational webinar March 18 and applications are due May 4.

## DEPARTMENT OF INTERIOR

### Fracking Impact Data

The U.S. Geological Survey released a [study](#) recently finding that there is not enough available data to assess potential risks to water quality associated with fracking. The agency concluded that additional electronic data are needed on water acquisition, usage, treatment and disposal or recycling associated with unconventional oil and gas well development and completion.

## ENVIRONMENTAL PROTECTION AGENCY

### Green Infrastructure

The Environmental Protection Agency released [guidance](#) February 26 outlining how municipal program managers and local governments can retrofit existing sidewalks, parks, and streets with green infrastructure to manage stormwater and reduce costs. The University of California-Berkeley School of Law Wheeler Institute for Water Law and Policy issued a similar [report](#) last month recommending how to improve green infrastructure performance and minimize costs by monitoring projects.

### HFC Refrigerants

The Environmental Protection Agency released a [final rule](#) March 2 approving four hydrocarbons with no global warming potential, ethane, isobutene, propane, and R-441A, as well as HFC-32 for use in refrigeration systems as alternatives to substances with more significant warming potential. President Obama has directed the agency to use its authority under the significant new alternatives policy program to identify lower warming potential refrigerants as part of his climate action plan. The final rule will take effect 30 days after it is published in the Federal Register.

### Truck Standards Delayed

The Environmental Protection Agency said March 3 that the agency and the National Highway Traffic Safety Administration are likely to miss a White House deadline to propose new greenhouse gas and fuel economy standards for medium- and heavy-duty trucks this month. The agencies have not sent the proposal to the White House Office of Management and Budget for review, a process that can take up to 90 days. President Obama instructed the two agencies to propose the second phase of combined corporate average fuel economy and greenhouse gas emissions standards for model year 2018 and later heavy-duty trucks by March with a final rule expected next year.

### RFF CPP Report

Resources for the Future released a [report](#) March 4 finding that states should be encouraged to participate in cap and trade programs to meet their state rate targets under the Environmental Protection Agency's proposed Clean Power Plan. The report suggests that such an effort would provide states with tradable credits that would allow them to reduce their emissions rates below what the agency requires. Environmental Protection Agency Administrator Gina McCarthy had suggested that interstate carbon markets are likely to provide the most cost

effective way for states to meet their targets.

### **CPP Litigation**

Murray Energy submitted its final reply briefs March 9 in two cases challenging the Environmental Protection Agency's proposed Clean Power Plan. The company argues in its first brief that the Mercury and Air Toxics regulation for power plants under the Clean Air Act's Section 112 means that the agency cannot also regulate greenhouse gases from power plants under Section 111. The second brief focuses on the magnitude of the proposed rule and its impact on the coal industry and asks the U.S. Court of Appeals for the District of Columbia Circuit to halt the rule before it becomes final. The agency submitted its final reply brief the same day, saying that the court should not halt an ongoing rulemaking before it takes final action. The court issued an order the same day allowing Arkansas to intervene in the case, but denied the West Virginia Coal Association's request to join. The court will hear oral arguments in the cases April 16.

## **INTERNATIONAL**

### **Climate Litigation**

The Sabin Center for Climate Change Law at Columbia University released a [study](#) last month finding that the American legal system has decided more than double the number of climate change lawsuits than the rest of the global community, 420-172. The report concluded that litigation could increase as climate impacts become more pronounced.

### **Switzerland INDC**

Switzerland [submitted](#) February 27 its Intended Nationally Determined Contribution to the United Nations Framework Convention on Climate Change, becoming the first country to submit its INDC. The proposal calls for the country to reduce climate pollution 50 percent by 2030 from 1990 levels, and by 70-85 percent by 2050. The nation will use carbon credits purchased from developing countries to meet part of its target. Countries agreed at the Lima Summit in December to propose their emissions pledges in early 2015. The United Nations will compile the pledges by November 1 into an assessment of how close the globe is to an emissions reduction strategy in line with global warming to no more than two degrees Celsius above pre-industrial levels.

### **EU Climate Action**

The European Environment Agency published March 3 a five-year [report](#) assessing the effectiveness of European Union environmental policy, concluding that the bloc has much more to accomplish to meet its 2050 goal of reducing emissions by 80 to 95 percent below a 1990 baseline. The European Commission has said that the bloc will need to invest an additional \$303 billion per year in low carbon initiatives to meet its goals.

### **Canadian/Chinese Solar Trade Case**

Canada's Border Services Agency [issued](#) March 5 provisional duties of as much as 286.1 percent against solar energy equipment from China after issuing a preliminary determination that goods are being exported into the country at dumped and subsidized prices. The agency will issue a statement about the preliminary determination by March 20. The Canadian International Trade Tribunal launched the same day its injury [inquiry](#) on the Chinese exports, which will include a public hearing to be held in Ottawa starting June 1, with a final determination to be issued by July 3.

### **Chinese EVs**

China's Industry Minister Miao Wei said March 5 that the nation will encourage Internet companies like Leshi Internet Information and Technology Corporation to develop electric vehicles, since they have the potential to create a new manufacturing model for the automobile industry. China is promoting the use of electric vehicles to reduce the country's reliance on imported oil and to reduce tailpipe emissions.

### **EU INDC**

The European Union submitted March 6 its Intended Nationally Determined Contribution to the United Nations Framework Convention on Climate Change. The INDC confirmed the bloc's October 2014 commitment to reduce its emissions by at least 40 percent by 2030 compared to 1990 levels. The document was unclear on the extent to which land use, land use change, and forestry would be included in the target, saying that related policy will be established soon.

### **Timely INDCs Necessary**

Bangladesh's climate negotiator Quamrul Chowdhury said March 6 that countries that delay submitting their Intended Nationally Determined Contributions to the United Nations Framework Convention on Climate Change may risk the success of the global climate talks in Paris later this year. Switzerland and the European Union have provided the only submissions thus far; 196 national pledges will be considered. Though many countries committed

to submitting their pledges by the end of this March, many will not arrive until June or even September.

## STATES

### Deepwater Wind Financing

Deepwater Wind, LLC announced March 2 that they have fully financed their Block Island Wind Farm, reaching financial close on more than \$290 million in project financing. The company is the only United States offshore wind company to reach the critical milestone, and the company has now secured all debt and equity funding needed to construct and operate its 30 MW farm, which is already under construction.

### AZ Solar Lawsuit

SolarCity Corporation, the largest American rooftop solar installer, filed a lawsuit March 2 in the U.S. District Court for the District of Arizona against Salt River Project, alleging that the Arizona-based utility's new pricing policy will punish customers who choose to use solar energy. The utility adopted a pricing plan recently imposing fees on Salt River customers who generate their own power. The fee has already impacted SolarCity business; in the six months before its December enactment, the company installed an average 400 systems a month in the service area, but new applications have fallen 96 percent since then.

### CO RES

Colorado's House of Representatives State, Veterans, and Military Affairs Committee voted March 2 to kill Senate Bill 44, which would have rolled back the state's renewable energy standard. The state's upper chamber approved the measure, which would have cut the minimum state investor-owned utility renewable energy portfolio from 30 percent to 15 percent by 2020 and reduced the cooperative electric association standards from 20 percent to 15 percent, last month.

### OR Solar Tax Investigation

Oregon Governor Kate Brown (D) asked the state Department of Justice last week to investigate the award of \$11.8 million in state tax credits used to finance a large solar panel installation at the Oregon Institute of Technology and Oregon State University. Oregon's Department of Energy Director Michael Kaplan asked the Justice Department's Criminal Investigation Division to inspect the issue the previous week. State rules compel the Department of Energy to revoke tax credits obtained by fraud.

### LPSC Solar

Acadian Consulting Group released a [draft report](#) for the Louisiana Public Service Commission March 3 finding that there is more than 42 MW of rooftop solar in place under the panel's jurisdiction. Between 2008 and 2013, utilities in the commission's footprint reported a 180 percent growth in rooftop solar, with the figure potentially going up to 78 MW, even with current caps. The report concluded that if the caps were removed, there could be 494 MW of rooftop solar by 2020.

### OR Clean Fuel

The Oregon House approved March 4 controversial legislation (S.B. 324) to extend the state's clean fuels program, sending the measure to new Governor Kate Brown (D) for her signature. The program requires fuel distributors to reduce the carbon intensity of vehicle fuel by ten percent over the next decade.

### Chinese Climate Cultural Influences

A recent Chinese [documentary](#) about air pollution in the country could impact China's National People's Congress meetings, which began March 5. Chinese climate leaders are comparing "Under the Dome" to Rachel Carson's *Silent Spring*, which helped spawn an environmental movement in the United States in the 1960s. A February 26 National Economic and Social Development Bulletin found that just over 90 percent of the 161 Chinese cities that monitor air pollution did not meet air quality standards last year. Beijing issued an updated action plan for air pollution control the previous day that runs through 2017, amending the version that took effect last March. The city faced more than \$16 million in penalties last year for air pollution violations.

### BDQM Progress

Con Edison announced March 6 that it has spent \$1.2 million and taken the first steps in a program it hopes will be a testing ground for New York's plan to overhaul the energy grid. The \$250 million Brooklyn-Queens Demand Management program was proposed as a way to generate 52 MW of energy efficiency and avoid spending roughly \$1 billion on a new substation and transmission lines in the area.

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