



ML Strategies Update

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AUGUST 5, 2015

Energy & Environment Update

ENERGY AND CLIMATE DEBATE

Energy and climate issues have had a big week, with the Senate Energy and Natural Resources Committee approving its bipartisan broad energy package and President Obama unveiling the final Clean Power Plan. The House departed last week for the August recess, and the Senate will do the same later this week, but energy and environment issues will continue to play a big role on the national and international stages through the rest of the year.

After the House and Senate managed last week to approve a three-month \$8 billion extension of the Highway Trust Fund (H.R. 3236), President Obama signed the measure just before highway funding authority expired July 31. The new deadline for Congress to draft a long-term highway fix is October 29, and members will return after the Labor Day holiday to a packed fall schedule that also includes appropriations, reauthorization of the Export-Import Bank, the customs bill, the Iran nuclear deal, tax extenders, the debt limit, criminal justice reform, and energy legislation, to name a few. The Senate is dealing with Planned Parenthood and cybersecurity legislation this week.

House passed July 28 the Regulations from the Executive in Need of Scrutiny (REINS) Act of 2015 (H.R. 427), which would require major legislation with an annual economic impact of \$100 million or more to obtain congressional approval before it could take effect. The measure could delay or halt several planned Environmental Protection Agency rules. The White House reiterated July 27 a threat to veto the measure.

Following months of hearings and negotiations, Senate Energy and Natural Resources Committee Chair Lisa [Murkowski](#) (R-AK) and Ranking Member Maria Cantwell (D-WA) [released](#) July 22 their broad, bipartisan [energy bill](#), the [Energy Policy Modernization Act of 2015](#). The legislation includes a wide range of policy measures, from expediting the Department of Energy's liquefied natural gas export approval process; to increasing electric grid cybersecurity provisions; to reauthorizing basic and experimental energy research programs; to ensuring grid reliability; to providing for 26 energy efficiency provisions, 19 of which are related to building efficiency; to encouraging advanced vehicles; to updating the Federal Energy Regulatory Commission's hydropower licensing process; and more.

The Senate Energy and Natural Resources Committee marked up the [measure](#), as well as 19 other energy bills, including the Shaheen-Portman energy efficiency package, much of which is included in the larger bill, July 28-30, and reported the broad measure out of committee favorably after dispensing with nearly 50 of the 94 offered amendments. The five-part bipartisan strategy would be the most significant update to energy law in a decade. The committee managed to avoid issues that could endanger the bill, per commitments from Senators Murkowski and Cantwell, and the vote sets up a potentially more divisive debate on the Senate floor come the fall, though Senate Majority Leader Mitch McConnell (R-KY) has not yet committed floor time for the measure.

Eleven environmental groups sent a letter July 28 to Senate Energy and Natural Resources Committee Chair Lisa Murkowski (R-AK) and Ranking Member Maria Cantwell (D-WA) expressing their disappointment about the bill, noting that it contains “flawed provisions” that are harmful to the environment, such as repealing a law that requires new federal buildings to phase out fossil fuel use and expediting the federal approval process for liquefied natural gas exports.

The committee also approved by a large margin the Shaheen-Portman energy efficiency bill (S. 720) as well as the Offshore Production and Energizing National Security Act, which combines Senator Murkowski’s her plan to lift the 40-year-old ban on crude oil exports with an expansion of offshore drilling and coastal state revenue sharing. Despite the fact that much of the Shaheen-Portman energy efficiency package is included in the broader bill, the committee moved forward with the standalone language as well at the request of Senator Rob Portman (R-OH) in case the broader bill gets bogged down by amendments or unrelated political issues, as the energy efficiency measure did last time around. The committee also approved Jonathan Elkind’s nomination to be assistant energy secretary for international affairs.

Earlier in the month, on July 22, House Energy and Commerce Subcommittee on Energy and Power marked up and approved the lower chamber’s four-part bipartisan [energy bill](#). The most controversial measures, including a repeal of the crude oil export ban, language that would have prevented the Department of Energy from implementing furnace efficiency standards, and a repeal of the 2007 law requiring federal buildings to phase out fossil fuel use by 2030, were left out of the package in an attempt to secure sufficient bipartisan support. The package does include measures to streamline the federal citing process for interstate natural gas pipelines and to allow the Department of Energy to take emergency measures to protect grid security, among other things. Committee Chair Fred Upton (R-MI) said July 28 that he intends for the full House Energy and Commerce Committee to consider the bill by mid-September, with the legislation on the House floor by the end of the month. Similar to promises from Senate Energy and Natural Resources Committee Chair Murkowski and Ranking Member Cantwell, Representative Upton and House Energy and Commerce Committee Ranking Member Frank Pallone (D-NJ) have agreed to only add language that both parties can accept, keeping the measure free of “poison pills” that could jeopardize its chances for passage, though the legislation may very well change significantly in the next couple of months.

President Obama unveiled the final [Clean Power Plan](#) August 3, along with a [regulatory impact analysis](#). The final 111(d) rule follows a lengthy rulemaking process during which the Administration considered more than 4.3 million comments and worked with stakeholders across the board, from states, to tribes, to utilities, to industry organizations, to public health and environmental advocates, to large and small companies, to scientists and academics across the country. The final rule reflects that input, giving states and utilities additional time to preserve sufficient, reliable, and affordable power in the United States.

The first ever national standard to address power plant CO2 pollution, the Clean Power Plan sets strong but achievable and flexible standards to reduce CO2 emissions by 32 percent from 2005 levels by 2030, a two percent increase from the proposed rule, while maintaining energy reliability and affordability. Power plants currently account for 40 percent of the United States’ CO2 emissions.

The Administration estimates that the Clean Power Plan will prevent up to 3,600 premature deaths, 1,700 non-fatal heart attacks, 90,000 asthma attacks in children, and 300,000 missed workdays and schooldays in 2030. The Plan is expected to lead to 30 percent more renewable energy generation in 2030, creating tens of thousands of jobs awhile continuing to reduce renewable energy costs. The Plan is projected to save the average American family nearly \$85 a year on energy bills in 2030, save enough energy to power 30 million homes in 2030, and save consumers \$155 billion from 2020-2030.

To maximize the range of choices available to states in implementing the Clean Power Plan and to utilities in meeting the State Implementation Plans, the Plan establishes interim and final CO2 emission performance rates for fossil fuel-fired electric steam generating units and natural gas-fired combined cycle generating units via statewide goals in three forms:

- A rate-based state goal measured in pounds per megawatt hour;
- A mass-based state goal measured in total short tons of CO2;
- A mass-based goal with a new source complement measured in total short tons of CO2.

The Plan directs states to develop and implement State Implementation Plans that ensure that the power plants in their state, individually, together, or in combination with other measures, achieve the interim CO2 emissions performance rates between 2022 and 2029 and the final CO2 emission performance rates, rate-based goals, or mass-based goals by 2030. Note that the interim target in the final rule begins in 2022, two years later than the in

the proposed rule. This delay is in response to comments from states and others concerned about having sufficient time to prepare to begin meeting their targets. Note also that the regulatory burden within the final rule rests with power plants, not with states, responding to the concern that the Clean Air act authorizes the agency to set performance standards for sources, and delineating emission rates to different types of technology, as is the long-established agency precedent.

In another change, the final Clean Power Plan determined that the best system of emissions reduction consists of three, rather than four, building blocks:

- Building Block 1: reducing the carbon intensity of electricity generation by improving the heat rate of existing coal-fired power plants.
- Building Block 2: substituting increased electricity generation from lower-emitting existing natural gas plants for reduced generation from higher-emitting coal-fired power plants.
- Building Block 3: substituting increased electricity generation from new zero-emitting renewable energy sources for reduced generation from existing coal-fired power plants.

Energy efficiency is not included in the final rule's building blocks, as the Environmental Protection Agency sought to make the Plan more legally defensible. Commenters contended that the agency lacked the authority to require emissions reductions beyond the fence line of power plants themselves. States will still have the option to use energy efficiency measures as compliance tools in their state plans, and energy efficiency plays an important role in the newly announced Clean Energy Incentive Program, discussed in more detail below.

States may choose between two plan types to meet their goals:

- Emission standards plan: includes source-specific requirements ensuring all affected power plants within the state meet their required emission performance rates or state-specific rate-based or mass-based goal.
- State measures plan: includes a mixture of measures implemented by the state, including renewable energy standards and programs to improve residential energy efficiency, that are not included as federally enforceable components of the plan. The plan may also include federally enforceable source-specific requirements. State measures, alone or in conjunction with federally enforceable requirements, must result in impacted power plants meeting the state's mass-based goal. The plan must also include a backstop of federally enforceable standards for affected power plants that entirely meet the emission guidelines and that would be triggered if the state measures failed to result in the affected plants achieving the required emissions reductions on schedule. States may use the [federal implementation plan](#), which the agency proposed August 3, for their backstop. Additionally, states may use the federal implementation plan as a model rule as they craft their own plans, and it will serve as a starting point for the agency to craft plans for states that decline to do so themselves.

The final rule also provides states with the option to work with other states on multi-state approaches, including emissions trading, that allow their power plants to integrate their interconnected operations within their operating systems and their opportunities to address CO₂ emissions. The agency has long contended that perhaps the most cost-effective way for states to meet their goals is via emissions trading, through which affected power plants may meet their emission standards via emission rate credits for a rate-based standard or allowances for a mass-based standard.

The final rule includes several features that reflect the agency's commitment to ensuring that compliance with the Clean Power Plan does not interfere with industry's ability to maintain the reliability of the country's electricity supply, including a long compliance period, phased-in reduction requirements, sufficient time and flexibility for the planning and investment needed to maintain system reliability, a wide variety of acceptable approaches and measures, mechanisms for states to seek plan revisions in the case of unanticipated or significant reliability challenges, and a safety valve. The Environmental Protection Agency, Federal Energy Regulatory Commission, and Department of Energy outlined the same day a [reliability coordination plan](#), and regulators plan to meet at least four times a year to ensure that the Clean Power Plan will not harm the country's electric grid.

The final rule requires states to submit a final State Implementation Plan, or an initial state plan with an extension request by September 6, 2016. States must submit final complete plans no later than September 6, 2018. The final rule provides 15 years for full implementation of all emission reduction measures, with incremental steps for planning and demonstration that will ensure progress is being made in achieving the required emission reductions. Each state plan must include provisions that will allow the state to demonstrate that it is progressing toward its 2030 goal.

The agency created yesterday a Clean Energy Incentive Program to reward early investments in renewable energy generation and demand-side energy efficiency programs implemented in low-income communities that deliver

results during 2020 and/or 2021. The agency plans to make allowances or emission rate credits available to states that incentivize these investments.

The final rule will no longer count nuclear plants under construction in state targets, instead giving states credit for them and for increases in existing nuclear generation. Standards for new coal-fired power plants will require carbon capture and storage technologies, but at a lower rate than previously proposed. Requirements can also be met via a range of other technological options, including co-firing and integrated gasification combined-cycle technologies.

The agency released several fact sheets on the plan yesterday, including an [overview](#), a [by the numbers](#) outline, a summary of [benefits to the power sector](#), a [legal justification](#), a description of the [Clean Energy Incentive Program](#), details on [community resources](#), and a discussion of [key topics](#). The agency also released [state-specific](#) fact sheets for 47 states, not including Alaska, Hawaii, or Vermont, that include the state's interim and final CO2 emission performance goals, expressed in both rate and mass, and how the rate-based goals compare to proposed goals; note that differences among state goals have been reduced in the final rule.

Prior to the Plan's unveiling, President Obama released a [video](#) and [fact sheet](#) about the rule, and Environmental Protection Agency Administrator Gina McCarthy also released a [video](#) detailing the importance of the rule for public health.

As promised the agency also issued final CO2 111(b) [standards](#) for new, modified, and reconstructed power plants, as well as a related [regulatory impact analysis](#) and [fact sheet](#).

Reactions to the Clean Power Plan are already streaming in, with Congressional Democrats, Democratic candidates, states such as California and members of the Regional Greenhouse Gas Initiative and others, and public health and environmental organizations, expressing support for the rule, and Congressional Republicans, Republican presidential candidates, conservative states, and the fossil fuel industry opposing it. Responses from manufacturing, utilities, and the [corporate](#) world are mixed. At least six governors have indicated that they will resist submitting a State Implementation Plan to the agency, and several states and industry groups are quickly preparing legal action against the measure.

With climate change increasingly becoming part of President Obama's legacy, look for several climate related events to take place in the coming months. President Obama will keynote the Senate Minority Leader Harry Reid's (D-NV) National Clean Energy Summit in Las Vegas August 24. He will travel to Alaska at the end of the month to speak at an Arctic Council ministerial meeting about how climate change is impacting the Arctic. President Obama will meet in September with Pope Francis, in part to discuss climate change and the recent encyclical, *Laudato Si*, during the pontiff's visit to the United States. International climate negotiators will continue to meet throughout the fall to further prepare the negotiating text for the end of the year global climate negotiations in Paris, and President Obama has said recently that one of his biggest goals for the rest of the year is to have a successful outcome in Paris.

CONGRESS

Ozone Letters

House Energy and Commerce Committee Chair Fred Upton (R-MI) and Representatives Ed Whitfield (R-KY) and Pete Olson (R-TX) sent a [letter](#) July 29 to White House Chief of Staff Denis McDonough urging the White House and the Environmental Protection Agency to retain the current national ambient air quality standards to avoid related costs and provide additional time for reductions to be achieved under the current standards. The letter includes a [list](#) of roughly 700 organizations that have already voiced opposition to the proposal. The previous day, 136 House members sent a similar [letter](#) to Environmental Protection Agency Administrator Gina McCarthy on the proposal. On July 30, 64 House Democrats sent Administrator McCarthy a [letter](#) urging her to revise the national ozone standards to 60 ppb. Industry, public health, and environmental groups are similarly increasing their pressure on legislative and executive branch leaders in advance of the final decision, holding meetings, launching advertising campaigns, sending letters, and issuing reports. The Environmental Protection Agency is under a court-ordered October 1 deadline to issue a final decision on whether to revise or retain the current 75 parts per billion standards set in 2008; if the agency does revise the standard, it is considering reducing it to somewhere in the range of 65-70 ppb.

Legislation Introduced

Representative Jim Sensenbrenner (R-WI) introduced legislation (H.R. 3228) July 27 to require that until a comprehensive study is completed, the volume of cellulosic biofuel mandated under the renewable fuel program be limited to what is commercially available.

Representative Mark Takano (D-CA) introduced legislation (H.R. 3263) July 28 to make innovative technology loan

guarantee support available for battery storage technologies.

Representatives Peter Welch (D-VT) and Tom Reed (R-NY) introduced legislation (H.R. 3266) July 28 to improve the productivity and energy efficiency of the manufacturing sector by directing the Secretary of Energy, in coordination with the National Academies and other appropriate Federal agencies, to develop a national smart manufacturing plan and to provide assistance to small- and medium-sized manufacturers in implementing smart manufacturing programs.

Senators Ron Wyden (D-OR) and Tom Udall (D-NM) introduced legislation (S. 1891) July 29 to amend the Mineral Leasing Act to improve coal royalties.

Representative Alan Lowenthal (D-CA) introduced legislation (H.R. 3289) July 29 to prevent the waste of gas produced under oil and gas leases on Federal land and to collect royalty on all gas production.

Representative Bobby Rush (D-IL) introduced legislation (H.R. 3306) July 29 to authorize the export of energy resources, energy technologies, and related services to Cuba.

Representative Donald Norcross (D-NJ) introduced legislation (H.R. 3386) July 29 to require the Secretary of Energy to establish a pilot competitive grant program for the development of a skilled energy workforce.

Representative Scott Peters (D-CA) introduced legislation (H.R. 3392) July 29 to amend the Energy Policy Act of 2005 to require the Secretary of Energy to consider the objective of improving the conversion, use, and storage of CO₂ produced from fossil fuels in carrying out research and development programs under the Act.

Representative Earl Blumenauer (D-OR) introduced legislation (H.R. 3311) July 29 to amend the Internal Revenue Code of 1986 to repeal fossil fuel subsidies for oil companies.

Representative Peter Welch (D-VT) introduced legislation (H.R. 3426) July 29 to amend title VI of the Public Utility Regulatory Policies Act of 1978 to establish a Federal renewable electricity standard for retail electricity suppliers and a Federal energy efficiency resources standard for electricity and natural gas suppliers.

Upcoming Hearings

The Senate Environment and Public Works Committee will hold a hearing August 4 to consider oversight of litigation at the Environmental Protection Agency and the Fish and Wildlife Service and its impacts on the U.S. economy, states, local communities, and the environment.

The Senate Environment and Public Works Subcommittee on Clean Air and Nuclear Safety will mark up August 5 Senator Shelley Moore Capito's (R-WV) legislation, the ARENA Act, intended to roll back the Environmental Protection Agency's Clean Power Plan.

DEPARTMENT OF DEFENSE

Climate's Security Implications

The Department of Defense sent a [report](#) to Congress July 28 detailing the national security implications of climate change. The report concluded that climate change is a serious and growing threat to our national security that aggravates poverty, social tensions, environmental degradation, ineffectual leadership, and weak political institutions and threatens the domestic stability of numerous countries.

ENVIRONMENTAL PROTECTION AGENCY

RFS Comments

The comment period for the proposed Renewable Fuel Standard expired July 27, and the Environmental Protection Agency received comments ranging from requests to increase the standards to calls to reduce the amounts of ethanol and other renewable fuels required to be blended into the fuel supply in 2014, 2015, and 2016. [Growth Energy](#) indicated that the industry could supply all of the fuel necessary to meet the volumes required by law, and the company, as well as the [Renewable Fuels Association](#), [Senator Chuck Grassley \(R-IA\)](#), and others encouraged the agency to increase the volume requirements. The American Petroleum Institute and the American Fuel and Petrochemical Manufacturers [argued](#) that the agency should reduce the blended requirement, contending that consumer demand for higher renewable fuel blends is weak. The agency must consider all comments and release a final rule by November 30.

CSAPR Relax

The U.S. Court of Appeals for the District of Columbia Circuit ordered July 28 the Environmental Protection Agency

to relax SO₂ and NO_x standards for 13 Southern and Midwestern states whose emissions are harming air quality downwind along the east coast.

Fuel Standards

The Environmental Protection Agency and the National Highway Transportation Safety Administration announced July 29 public hearings to be held for joint proposed rules, the Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles – Phase 2 and the Draft Environmental Impact Statement. The hearings will take place August 6 in Chicago and August 18 in Los Angeles.

FEDERAL ENERGY REGULATORY COMMISSION

Demand Response Supreme Court Case

The Supreme Court will hear oral arguments October 14 in a case questioning the validity of a demand response compensation program in wholesale markets run by the Federal Energy Regulatory Commission (FERC v. Electric Power Supply Association, U.S., No. 14-840).

INTERNATIONAL

Green Taxes

The Organization for Economic Cooperation released a [report](#) July 27 on green taxes urging countries to use environmental protection regulation, taxation, and other policy tools to encourage private sector innovation. The report evaluated the progress its 34 member countries and a handful of non-member emerging economies on implementing the 2011 green growth framework.

EGA Negotiations

Environmental Goods Agreement negotiators met July 27-31 in Geneva for the eighth round of negotiations intended to eliminate import tariffs on more than 650 products that reduce climate change impacts. Last week's negotiations resulted in the European Union offering some preliminary suggestions as to what the draft text should entail, with products falling into ten categories. Negotiators are hopeful that China will provide more clarity about its objectives when members resume their negotiations in September.

2020 Pledges on Schedule

The Congressional Research Service released a [report](#) July 28 finding that the United States, China, the European Union, and many of the globe's other top CO₂ emitters appear to be on track to meet their 2020 pledges to reduce or slow the growth of their emissions.

Canadian Vehicle Standards

Environment Canada finalized July 29 [regulatory initiatives](#) to align its vehicle emissions of greenhouse gases and other pollutants standards with the stricter U.S. Tier 3 standards by 2025. Beginning with the 2017 model year, Canada will begin to strengthen its emissions standards for passenger vehicles, light-duty trucks, and some heavy-duty trucks.

Monaco INDC

Monaco submitted July 29 its [Intended Nationally Determined Contribution](#) to the United Nations in advance of the international climate negotiations in Paris at the end of the year. Monaco pledged to reduce its emissions 50 percent from 1990 levels by 2030, eventually reducing emissions 80 percent from 1990 levels by 2050. The country has established an action plan to reduce emissions from transportation, waste to energy, and building air conditioning units, which account for nearly 90 percent of its emissions.

Dangerous 2 Degrees

Speaking at a New Republic media group and Center for American Progress climate forum July 29, World Bank Vice President and Special Envoy for Climate Change Rachel Kyte said that the goal of keeping global warming to below 2 degrees Celsius, the likely target for the international climate agreement at the end of the year in Paris, would likely threaten many of the most vulnerable countries with significant climate change impacts. Current emissions reduction policies are projected to result in temperatures rising between 3-5 degrees Celsius above preindustrial temperatures, while many vulnerable nations continue to seek a 1.5 degree Celsius target agreement.

STATES

Compound Flooding

Nature Climate Change published a [paper](#) July 27 finding that New York's chances of being flooded due to

compound flooding events such as rising sea levels, increasing storm surges, and heavy rainfall, have more than doubled in the past 80 years, and the paper links the increase, in New York and around the country, to climate change.

NY Solar

ConEdison and SunPower launched July 28 a rooftop solar lease project in New York. Customers will be enrolled to receive SunPower solar systems beginning this month, and ConEdison will own the leased systems and collect monthly payments over 20-year lease agreement periods, while SunPower will provide a limited warranty and production guarantee for each system under the same time frame.

WA Carbon Cap

Washington Governor Jay Inslee (D) directed his top environmental official July 28 to establish a regulatory cap on carbon emissions that would not charge for emissions and would not raise funds, nor would it create a central emissions credit trading market, though private trading will be permitted. Due to state Republican representatives and industry officials, Governor Inslee is abandoning his plan for a more comprehensive clean fuel standard in favor of the state CO2 cap. The process should take about a year to complete.

NY Grid

The New York Department of Public Service released a proposal July 28 to better align the economic interests of utilities with the state's Reforming Energy Vision plan. The proposal is another effort in the state's effort to remake its energy markets to accommodate more renewable energy and energy efficiency technologies. The proposal will alter the state's current reliance on large power producers to include smaller power sources on the grid.

SE Climate Risks

The Risky Business Project released a [report](#) July 29 finding that areas of the Southeastern United States face particular risks from climate change threats, including 14 times the number of days with temperatures exceeding 95 degrees by 2100, and annual deaths due to extreme heat rising by 2,580 deaths in Texas and 1,840 deaths in Florida by 2050. The report concludes that existing southeast coastal property worth \$48.2-68.7 billion will be below sea level by 2050.

CA Wind

Iberdrola SA agreed July 29 to sell power via a 15-year contract from a 132MW wind farm to Edison International's Southern California Edison utility unit. The Tule Wind Power Project will have 67 turbines and be complete in late 2017.

MISCELLANEOUS

Climate's Investment Impacts

The Economist Intelligence Unit published a [report](#) July 24 finding that investors around the world could lose \$4.2 trillion by 2100 even if climate change stays below 2 degrees Celsius, and could lose almost \$14 trillion if temperatures rise by 6 degrees Celsius. The report noted ways for investors to reduce their exposure to environmental risk, including investing in projects that finance a transition to a low carbon economy.

Small Business Solar

SolarCity introduced July 28 a financing model that allows people to upgrade their homes and offices with loans paid back through property taxes to install rooftop power systems on small and mid-size businesses. The residential solar installer says the market is underserved. The Property Assessed Clean Energy programs are available in 31 states.

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