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ML Strategies Weekly Energy and Environment Update – Week of September 23, 2013

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By David Leiter, Sarah Litke, Jean Cornell, Bryan Stockton, Jordan Collins and Neal Martin

Climate change was the Obama Administration's message of the week. Leading the news was the Environmental Protection Agency's New Source Performance Standards announcement. In his Climate Action Plan, President Obama called upon the agency to release carbon emissions standards for new power plants by September 20. On Friday, Administrator Gina McCarthy unveiled the new rules. The standard sets a cap of 1,000 pounds of carbon dioxide emissions per megawatt hour for natural gas power plants; 1,100 pounds per megawatt hour for smaller natural gas power plants; and 1,100 pounds per megawatt hour for coal-fired power plants. Additional flexibility is provided for coal plants if they wish to average emissions over multiple years by meeting smaller limits. In her announcement, Administrator McCarthy said technologies exist for plants to meet this standard. She continued that the agency is not making a statement with this rule about fuel choice; it is not an effective ban on coal.

Following the announcement, proponents and opponents of the rule voiced their opinions. Deputy Assistant to the President for Energy and Climate Change Heather Zichal, in a **blog post**, praised the rule and the administration's work on climate change. Secretary of Energy Ernest Moniz said that the rule was a significant step and that his department will continue to support carbon capture technology and clean energy. Environmental groups, like the League of Conservation Voters and the Environmental Defense Fund, praised the rule while industry members, including the National Association of Manufacturers, said the rule effectively banned on coal. Congress was divided, mostly along party lines, although Democratic Senators Joe Donnelly (D-IN), Heidi Heitkamp (D-ND), Mary Landrieu (D-LA), and Joe Manchin (D-WV) came out against the proposal. Senate Minority Leader Mitch McConnell (R-KY) said he will introduce a resolution of disapproval under the Congressional Review Act against the rule, essentially vetoing the rule. However, the resolution, if passed, can only be effective once the rule is finalized. House Energy and Commerce Chairman Fred Upton (R-MI) said he will hold hearings on the rules.

Just two days prior to the announcement, Administrator McCarty and Energy Secretary Ernest Moniz appeared before the House Energy and Commerce Subcommittee on Energy and Power to defend the President's Climate Action Plan.

The Senate's consideration of Shaheen-Portman energy efficiency bill this past week was delayed by non-germane amendments. The future of **S. 1392** is unclear: Congress is not expected to consider it this week, and there is no sign as to when it will pick up the bill again.

Instead, Congress will focus this week on funding issues in an effort to prevent a government shutdown. **H.J.Res. 59**, the House's continuing resolution, would sustain operations through December 15 but would defund Obamacare. The Senate will pick up the continuing resolution this week as the House, which approved it 230-189 on Friday, will move onto another issue at hand: the debt ceiling. House Republicans met Friday to discuss a plan for raising the debt ceiling, and participants told reporters following the meeting that tax reform will be tied to the strategy. Over in the Senate, Environment and Public Works Chairman Barbara Boxer (D-CA) on Wednesday promoted a possible carbon tax as part of tax reform.

For more on the latest energy and clean technology regulatory and legislative developments please see **ML Strategies**' most recent ***Energy and Environmental Update***.

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