



## ML Strategies Update

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## Energy & Environment Update

### ENERGY AND CLIMATE DEBATE

The Supreme Court partially upheld and partially rejected June 23 a set of Environmental Protection Agency greenhouse gas regulations for major pollution sources, following a legal challenge from the utility industry. The 5-4 ruling does not impact the agency's June 2 proposed CO<sub>2</sub> standards for existing power plants, nor does it limit the agency's overall ability to regulate greenhouse gases. The court ruled that the agency cannot require Title V and Prevention of Significant Deterioration pre-construction stationary source air permits based solely on the release of GHGs, but that emission sources that already need those permits should have to use the best available technology to control their emissions. While reading his [decision](#), Justice Antonin Scalia said that though he believes the agency overstepped its statutory boundaries when crafting its tailoring rule, the court's ruling should impact a very small percentage of regulated entities. Furthermore, the court found today that its 2007 decision in *Massachusetts v. EPA* that the Clean Air Act's use of the term "air pollutant," which it recognizes to be an imprecise term, includes GHGs does not preclude the agency from taking a more narrow approach elsewhere.

In other agency news, Murray Energy Corp., one of the country's largest coal companies, filed a lawsuit June 18 in the U.S. Court of Appeals for the District of Columbia Circuit seeking to block the Environmental Protection Agency's proposed CO<sub>2</sub> standards for existing power plants.

The Environmental Protection Agency published two proposed rules in the Federal Register June 18 to set CO<sub>2</sub> emissions standards for [existing](#) and [modified](#) power plants. The agency will accept public comments for 120 days, until October 16.

The House Appropriations Committee [approved](#) June 18 its \$34 billion energy and water appropriations [bill](#), sending the legislation to the full chamber. As we previously outlined, the legislation provides \$50 million less than the fiscal year 2014 enacted level, but \$327 million above President Obama's fiscal year 2015 request, rewarding traditional energy sources, nuclear energy, carbon capture and sequestration, and the Army Corps of Engineers at the expense of renewable energy and energy efficiency programs. The measure includes an amendment preventing the Department of Energy from adopting standards to increase ceiling fan efficiency.

The House passed the Department of Defense Appropriations Act (H.R. 4870) June 20, onto which it attached an amendment prohibiting the Pentagon from spending money on biofuels, electric vehicles, solar panels, and other green energy programs.

The Senate Appropriations Subcommittee on Energy and Water Development unveiled and approved a \$34.3 billion fiscal year 2015 spending bill June 18. The measure provides \$148 million above the fiscal year 2014 enacted level, and \$525 million above the president's budget request. The bill would provide \$28.4 billion to the Department of Energy for fiscal year 2015, increase funding for renewable energy and energy efficiency, and allow the Department of Energy to begin identifying interim radioactive waste storage sites. Senate Democrats' plans to pass the twelve regular annual spending measures this year stalled June 19, however, when party leaders were unable to strike an agreement on how amendments to the three-bill minibus (H.R. 4660), which includes the Commerce-Justice-Science, Agriculture and Transportation, and Housing and Urban Development appropriations bills, would be handled. Senate Appropriations Committee Chair Barbara Mikulski (D-MD) said late last week that the fate of the appropriations process rests on whether appropriators can reach a compromise soon. Shortly after the minibus stalled, Senator Mikulski also dropped plans to move to the annual Energy and Water bill after the White House told her that President Obama would veto the measure if Senator Mitch McConnell (R-KY) offered an amendment to overturn the Environmental Protection Agency's proposed CO2 standards for existing power plants.

House Republicans voted June 19 to promote Majority Whip Kevin McCarthy (R-CA) to majority leader, filling the leadership position that will be vacant at the end of July when current Majority Leader Eric Cantor (R-VA) steps down. Representative Steve Scalise (R-LA) will then become majority whip. Representative McCarthy introduced legislation in 2009 extending the production tax credit until 2020, and voiced support for extending the measure again in 2012. Last week, however, he told the Wall Street Journal that the industry can sustain itself, and that it has received enough federal support.

In the week leading up to the July 4 holiday recess, the House has a full agenda focused heavily on energy issues. The chamber will vote on a trio of energy bills that would expand oil and natural gas drilling in Alaska's National Petroleum Reserve ([H.R. 4899](#)), expedite the review of applications to export liquefied natural gas ([H.R. 6](#)), and hasten review of the Keystone XL pipeline ([H.R. 3301](#)). The Senate is unlikely to approve similar measures, though Senator Mark Udall (D-CO), has introduced similar LNG language (S. 2494) to Representative Cory Gardner's (R-CO) H.R. 6. Though support for the language is unanimous among House Republicans, Senate Democrats find themselves pulled in different directions. Senator Udall and Energy and Natural Resources Committee Chair Mary Landrieu (D-LA) debated last week with Senator Ed Markey (D-MA) about the export language. On the Keystone front, Former Vice President Al Gore wrote in a June 18 [Rolling Stone article](#) that President Obama has signaled that he will reject the Keystone XL pipeline, and the Senate Energy and Natural Resources Committee held a largely symbolic vote on Keystone hastening legislation last week. The House is also scheduled to vote on the Reliable Home Heating Act ([S. 2086](#)), designed to minimize shortages of propane and other heating fuels. The Senate approved the bill by unanimous consent in May. The lower chamber will consider also a pair of energy efficiency bills. The first, [H.R. 4092](#), is designed to increase energy conservation in schools through energy efficiency retrofits, and the second, [H.R. 4801](#), would require the Department of Energy to evaluate potential federal energy savings through greater use of thermal insulation on energy and water use systems in federal buildings.

## CONGRESS

### Public Must Demand Climate Action

Appearing June 18 before the Senate Environment and Public Works Committee, four former Republican Environmental Protection Agency Administrators testified that GOP lawmakers will support action on climate change once the public demands it.

### ENR Approves Nominees

The Senate Energy and Natural Resources Committee approved June 18 three nominees by voice vote. The committee approved Suzette Kimball as director of the United States Geological Survey, Estevan Lopez as Commissioner of Reclamation, and Monica Regalbuto as Department of Energy Assistant Secretary for Environmental Management.

### Gas Tax Proposed

Senators Chris Murphy (D-CT) and Bob Corker (R-TN) unveiled June 18 a bipartisan plan to raise federal gasoline and diesel taxes for the first time in more than two decades. The proposal would raise the 18.4 cents a gallon federal gas tax and 24.4 cents a gallon diesel tax by 12 cents each over the next two years, and then index the taxes to keep pace with inflation. The senators offered the proposal as a solution to Congress' struggle to pay for highway and transit programs.

### FERC Leadership Negotiated

The White House confirmed June 18 that it has agreed to retain Cheryl LaFleur as chair of the Federal Energy

Regulatory Commission for an additional nine months after the Senate confirms her to a second term, rather than install Norman Bay as chairman immediately upon his confirmation. The White House negotiated the compromise with Senate Energy and Natural Resources Chair Mary Landrieu (D-LA). The deal paved the way for the committee to approve his nomination later in the day.

### **ENR Clears Keystone Measure**

The Senate Energy and Natural Resources Committee approved, 12-10, June 18 legislation authorizing the northern segment of the Keystone XL pipeline. The vote reinforces the partisan differences over whether Congress should approve the pipeline rather than waiting for the administration to complete its review. Committee Chair Mary Landrieu (D-LA), one of only two Democrats, along with Senator Joe Manchin (D-WV), to vote for the measure, vowed to press for a vote on the Senate floor. Senate Majority Leader Harry Reid (D-NV) opposes the plan.

### **EPA Defends Proposed CO2 Standards**

Appearing June 19 before the House Energy and Commerce Subcommittee for Energy and Power, Environmental Protection Agency Acting Assistant Administrator for Air and Radiation Janet McCabe defended the legality of the agency's proposed CO2 standards for existing power plants. The committee plans to hold additional hearings on the proposed rule.

### **Legislation Introduced**

Senators Mark Udall (D-CO), Mary Landrieu (D-LA), and Mark Begich (D-AK) introduced legislation (S. 2494) June 18 to expedite applications to export natural gas, to require the public disclosure of liquefied natural gas export destinations.

Representatives Allyson Schwartz (D-PA), Chris Gibson (R-NY), Joseph Crowley (D-NY), Peter King (R-NY), and Richard Neal (D-MA) introduced June 18 bipartisan legislation to increase energy efficiency and protect critical infrastructure. The Power, Efficiency and Resiliency (POWER) Act modifies the investment tax credit for combined heat and power and waste heat to power.

Representative Mike Simpson (R-ID) introduced legislation (H.R. 4923) June 20 making fiscal year 2015 appropriations for energy and water development and related agencies.

### **Upcoming Hearings**

The Joint Economic Committee will hold a hearing June 24 on the economic impact of increased natural gas production.

The Senate Foreign Relations Committee will mark up June 24 the Energy Africa Act.

The House Science Committee will mark up June 24 the Secret Science Reform Act (H.R. 4012).

The House Natural Resources Subcommittee on Energy and Mineral Resources will hold a hearing June 24 on U.S. energy jobs and education opportunities.

The House Rules Committee will consider June 24 the fiscal year 2015 energy and water appropriations bill.

The Senate Energy and Natural Resources Committee will hold a hearing June 25 on the Nexus of Energy and Water for the Sustainability Act.

The House Oversight and Government Affairs Committee will hold a hearing June 25 on management issues at the Environmental Protection Agency.

The House Natural Resources Subcommittee on Public Lands and Environmental Regulation will hold a hearing June 25 on carbon soil sequestration on public lands.

The House Small Business Subcommittee on Agriculture, Energy, and Trade will hold a hearing June 26 on downstream challenges for small energy businesses.

## **ADMINISTRATION**

### **President Criticizes Climate Deniers**

Delivering the University of California-Irvine commencement address June 14, President Obama criticized Congressional Republicans who deny the scientific consensus that human activities cause climate change and

those who point to their lack of scientific expertise as a justification for not answering questions about climate change. He said that climate change should not be a partisan issue, and announced the creation of a \$1 billion [competition](#) for communities affected by natural disasters to compete for funds to help rebuilt more resilient communities.

## DEPARTMENT OF COMMERCE

### Energy Advisory Committee Reestablished

The Department of Commerce published a notice in the Federal Register June 23 reestablishing the Renewable Energy and Energy Efficiency Advisory Committee and seeking membership nominations. The committee advises the secretary on developing and administering programs and policies to expand U.S. export competitiveness.

## DEPARTMENT OF ENERGY

### Energy-Water Nexus

The Department of Energy released a [report](#) June 18 finding that the United States needs to adopt a more coherent approach to address the relationship between water and energy as the increasingly uncertain water supply poses potential vulnerabilities in the domestic energy system.

### Poneman to Harvard

The Department of Energy announced June 19 that Deputy Energy Secretary Dan Poneman would depart the agency this fall to head to Harvard. It is also possible that he will return in about a year to lead the Nuclear Energy Institute.

### Cyber Risk Input Sought

The Department of energy published a notice June 20 advertising bi-weekly conference calls as it prepares a document aligning existing energy sector cybersecurity risk management programs with the National Institute of Standards and Technology Cybersecurity Framework.

## DEPARTMENT OF INTERIOR

### MA Wind Proposed

Interior Secretary Sally Jewell and Massachusetts Governor Deval Patrick (D) unveiled June 17 a [plan](#) under which more than 742,000 acres in the Atlantic Ocean south of Martha's Vineyard would be made available for commercial wind energy leasing. The proposed Massachusetts Wind Energy Area is the largest in federal waters and would almost double the federal offshore acreage available for commercial-scale wind energy projects. The Bureau of Ocean Energy Management proposed to auction the area as four leases. A proposed sale notice for New Jersey is anticipated in the next week, and the bureau will issue a final sale notice for Maryland in the coming month.

### Wind Farm Eagle Impact

The Fish and Wildlife Service [announced](#) June 20 a series of public meetings to gather input on its proposed rule to allow wind farm operators receive permits to kill or harm eagles. The service issued the rule last December in order to facilitate renewable energy development and other projects intended to operate for decades, so long as companies adopt measures to minimize eagle harm. The previous day, the American Bird Conservancy [sued](#) the agency over its final rule.

## DEPARTMENT OF JUSTICE

### Fake RIN Charges

The Justice Department indicted Philip Joseph Rivkin on 68 charges in the U.S. District Court for the Southern District of Texas June 19. Mr. Rivkin allegedly sold about 45 million fake renewable identification numbers, amounting to more than more than \$29 million in fake renewable fuel credits representing millions of gallons of non-existent biofuel.

## DEPARTMENT OF STATE

### Ocean Conference

Secretary of State John Kerry told the International Ocean Conference June 17 that greater political will is needed to change policies on fishing, waste disposal, and carbon dioxide releases in order to protect oceans. Secretary Kerry announced that the administration would give \$640,000 to the International Atomic Energy Agency's Ocean Acidification-International Coordination Council to help understand to how reduce the impacts of ocean acidification.

The commitment complements the nearly \$2 million the Departments of Energy and State will contribute to support ocean and marine projects at the council. The previous day, Secretary Kerry called for a global, enforceable plan to protect the world's oceans from overfishing, marine pollution, and acidification.

## ENVIRONMENTAL PROTECTION AGENCY

### Biomass Accounting Framework

Ninety one scientists sent a [letter](#) June 19 to the Environmental Protection Agency calling for the agency to base its accounting framework for CO2 emissions from biomass-fueled power plants on sound science. The scientists urged the agency to reject the assumption that bioenergy is carbon neutral. The agency will soon conclude a three-year deferment period used to gain better understanding of biomass's carbon emissions while it considers whether to regulate biomass-burning facilities.

## FEDERAL ENERGY REGULATORY COMMISSION

### LNG Facility Approved

The Federal Energy Regulatory Commission authorized June 19 Semptra's Cameron LNG, LLC to site, construct, and operate facilities to liquefy and export domestically produced natural gas from its existing liquefied natural gas import terminal in Cameron Parish, Louisiana. The commission also authorized Cameron Interstate Pipeline, LLC to construct and operate pipeline and compression facilities in neighboring parishes to supply the facility with domestically produced gas.

### Transmission Investment Rule Revisions

The Federal Energy Regulatory Commission approved June 19 a new methodology for determining rates of return for building new transmission to serve wholesale power markets in New England. States contend that high utility rates of return are a burden for consumers, and are reviewing the decision as they weigh a legal challenge.

## INTERNATIONAL TRADE COMMISSION

### ITC Ruling Upheld

The U.S. Court of International Trade backed June 17 the U.S. International Trade Commission's 2013 decision that some Chinese and Vietnamese wind towers were harming the market. The ruling retains tariffs imposed on those imports.

## NUCLEAR REGULATORY COMMISSION

### Apostolakis to Retire

The White House officially decided last week to not renominate George Apostolakis to another term at the Nuclear Regulatory Commission. Mr. Apostolakis' term expires at the end of the month. Potential replacements include Phillip Niedzielski-Eichner, chief of staff to Chairman Allison Macfarlane; Steve Fetter, a University of Maryland professor and former White House Office of Science and Technology Policy official; and Stephen Burns, a general counsel for the Organisation for Economic Cooperation and Development at the Nuclear Energy Agency. Commissioner William Magwood will depart at the end of the summer to serve as director general of the Organisation for Economic Cooperation and Development's Nuclear Energy Agency, leaving the five-member commission with only three members. 28 environmental groups sent a [letter](#) last week urging Commissioner Magwood to resign immediately because he continued to work on Nuclear Regulatory Commission issues while pursuing and accepting the Nuclear Energy Agency position.

## INTERNATIONAL

### Uruguay Wind Investments

The United States told other members of the World Trade Organization's Committee on Trade Investment Measures June 11 that Uruguay should provide more information about a regulation that encourages the use of domestic content in wind farm construction projects.

### East African Tax Proposals

East African finance ministers from Kenya, Rwanda, Tanzania, and Uganda presented June 12 their tax proposals for the 2014-2015 fiscal year. Among other changes, Kenya removed the import duty on machinery, spares, and inputs used for direct and exclusive use in the development and generation of solar and wind energy.

### **EU-Chinese Solar Trade Case**

The European Commission announced June 18 that it is investigating complaints from European solar panel manufacturers that Chinese competitors are violating the terms of a 2013 settlement to prevent punitive antidumping and antisubsidy duties. EU ProSun charges that Chinese companies use kickbacks and underreporting schemes, and the commission could withdraw the settlement if allegations prove true.

### **Ambitious EU Energy Goals Needed**

An advisory panel to European Union environment ministers said June 18 that the EU needs to adopt an ambitious emissions reduction goal, targets for energy efficiency and renewable energy, and tools to foster related investment under its planned 2030 energy policies. The panel urged EU leaders to agree on the framework for the next decade by October, as agreed to earlier this year.

### **Australian Carbon Tax**

Australian Prime Minister Tony Abbott reintroduced legislation June 23 to repeal the national carbon tax. The plan would replace the carbon-price mechanism with a Direct Action Plan, which consists primarily of taxpayer-funded grants to companies. The prime minister blames the 2011 carbon price for a surge in electricity prices. Trade Minister Andrew Robb said June 16 that President Obama's plan to reduce CO2 emissions from existing power plants lacks substance. President Obama discussed climate change with Prime Minister Abbott when they met in the White House June 12 during his first trip to the United States since the Liberal-National coalition took control of the government in September.

## **STATES**

### **CA Fracking Regulations Updated**

California's Department of Conservation [revised](#) June 13 the proposed rules for oil and gas well-stimulation activities, including fracking, which it released last year. The new version clarifies and broadens some of the requirements, which take effect January 1. The California legislature enacted a measure (S.B. 4) last September requiring the agency's Division of Oil, Gas, and Geothermal Resources to adopt regulations that would require permits for certain treatments and provide advance notice to neighbors.

### **OH Changes Wind Setback Lines**

Ohio Governor John Kasich (R) signed into law legislation ([H.B. 483](#)) June 16 that includes an amendment requiring new wind farm installations to be built farther away from properties. The language changes the minimum setback distance for turbines from 1,125 feet between the extended tip of a turbine and the nearest home to the nearest property line. Wind proponents criticize the rule, finding that the change make may it impossible for developers to proceed with wind projects in Ohio worth \$2.5 billion.

### **Mayors' Climate Change Resolution**

The U.S. Conference of Mayors will vote June 23 to decide whether to endorse a call for cities to use natural solutions to fight climate change impacts.

## **SUSTAINABILITY**

### **Sustainability Report Content**

The Governance & Accountability Institute released a [report](#) June 16 ranking which environmental, social, and governance issues matter most and least in sustainability reports across 35 sectors. The rankings are intended to assist sustainability reporters in benchmarking themselves against what issues their sector peers view as the most relevant issues to measure, manage, and disclose.

### **\$1.1 Billion Savings from Climate and Energy Efforts**

Calvert Investments, Ceres, David Gardiner & Associates, and the World Wildlife Fund released a [report](#) June 19 finding that 53 companies in the Fortune 100 report collective savings of \$1.1 billion annually from their efforts to reduce GHG emissions and source more renewable energy. At the same time, the companies decreased their annual CO2 emissions by more than 58 million metric tons.

## **MISCELLANEOUS**

### **Affordable Geothermal**

The Geothermal Energy Association released a [report](#) last week finding that geothermal power is an affordable

renewable resource, and that its cost compares well with other available technologies.

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