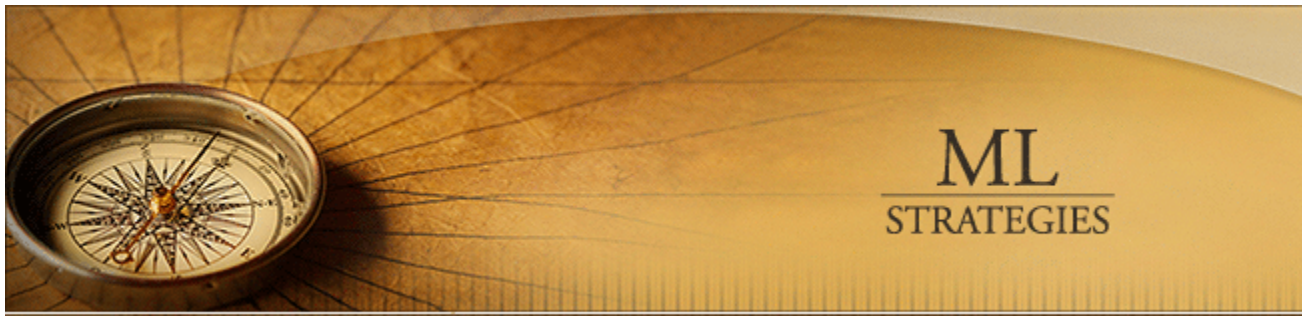




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MARCH 31, 2014

Energy & Environment Update

ENERGY AND CLIMATE DEBATE

Congress is increasingly likely to complete the appropriations process this year, in part because committee leaders in both houses, led by Senate Appropriations Chair Barbara Mikulski (D-MD) and House Appropriations Chair Hal Rogers (R-KY), are determined to finalize the bills before the 2015 fiscal year begins in the fall. Members are working to avoid a government shutdown a month before the elections. Relevant committee hearings will continue this week, after a week during which energy issues dominated much of the budget talks.

During a March 25 hearing on the Department of Energy's requested fiscal year 2015 budget, House Appropriations Energy and Water Development Subcommittee Chair Mike Simpson (D-ID) said that House appropriators plan to hasten efforts to draft and consider fiscal year 2015 energy and water bills so that they can have a budget finished on time. Testifying before the House Appropriations Subcommittee on Interior, Environment, and Related Agencies as it considered President Obama's fiscal year 2015 budget request for the Department of Interior March 25, Interior Secretary Sally Jewell said that the agency would publish fracking regulations sometime this year. Republicans on the House Science, Space, and Technology Committee said during a March 26 hearing that the president's fiscal year 2015 budget request for science agencies overemphasizes some priorities, including climate change, and fails to sufficiently consider other committee priorities, such as fracking. The House Appropriations Committee is hoping to finish hearings by mid-April and begin voting bills out of committee soon thereafter. House Appropriations Committee Ranking Member Nita Lowey (D-NY) said March 27 that the Environmental Protection Agency, instead of defending its proposed fiscal year 2015 budget, indicates that it does not value its own work, because the request includes a 3.7 percent cut from the 2014 enacted budget. She is particularly concerned about reductions to the water loan funds.

Tax extenders will also see movement in the coming days and weeks. One of the top goals of Senate Finance Committee Chair Ron Wyden (D-OR) upon assuming committee leadership earlier this year was to extend a number of key short-term [tax provisions that expired December 31](#). For the past several years, Congress has extended these tax provisions at the end of the year or even retroactively, leaving the business community mired in uncertainty. The committee was expected to mark up this Wednesday a bill extending most of these tax extenders provisions. The fifty-plus provisions range from a research and development tax credit to the renewable energy production tax credit. However, over the weekend, the Finance Committee decided to postpone the April 2 mark-up due to unresolved scoping, political, and scoring issues. It is not yet clear if the markup will be held on Thursday or

will be pushed to next week.

Until this weekend, the committee was expected to release a draft measure today that would reflect the bipartisan agreement between Chairman Wyden and Ranking Member Orrin Hatch (R-UT). Notably, the two leaders have expressed support for extension through 2015. Because Ranking Member Hatch has expressed a desire to evaluate the relative merits of each provision and not automatically extend every provision, this initial bill is expected to exclude several controversial measures, notably the renewable energy production tax credit. However, Finance Committee members can submit amendments before Wednesday, and given the Democratic majority and Republican PTC champions like Senator Chuck Grassley (R-IA), the renewable energy provisions stand a good chance of being included in the bill by the time it passes out of committee. Amendments not related to expired tax provisions will not be considered germane, and even if ruled germane, they would need to be paid for. Consequently, efforts to open up master limited partnerships to renewable energy or to adopt "commence construction" language for the solar investment tax credit will have to wait until the bill reaches the Senate floor to be offered as amendments.

Even if the full Senate were to approve the tax extender package shortly after it passes out of the committee, as expected, the outlook in the House is far from certain. For months, Ways and Means Chair Dave Camp (R-MI), who announced March 31 his retirement at the end of this term, has suppressed any talk of tax extenders so that his committee can focus on comprehensive tax reform. Now that his own leadership has shown little appetite for tax reform before the election, he recently announced April hearings on extenders, but on a slower timeframe than the Senate. With chances of comprehensive reform dead for this Congress, and with the Senate moving forward on its extender bill, it can no longer be claimed that extenders should be done as part of tax reform. Thus, the Senate's two-year extension may help provide a bridge to tax reform. Of course, tax extenders are enjoying traction now not so much because of the energy provisions but because of other popular provisions, like the research and development credit.

In his reform bill, Representative Camp proposed letting all renewable energy credits expire and retroactively reducing PTC payments for projects that had already qualified. If a Senate-passed extender package increases pressure on the House to act, renewable energy credits may not fare as favorably in the House as they are predicted to do in the Senate. House Ways and Means Ranking Member Sandy Levin (D-MI) recently told renewable energy advocates that an extension of the PTC is not "automatically a given." Advocates can hope that the presumed full extension through 2015 in a Senate bill will strengthen the bargaining position with the House.

The Congressional Research Service outlined on March 24 possible approaches to addressing tax reform. Please find the [report here](#). Meanwhile, support for various provisions continues to come from all directions. The Governors Wind Energy Coalition sent a [letter](#) March 31 urging congressional leaders to extend the production tax credit.

In addition to holding over 30 budget hearings and potentially making inroads to tax reform negotiations, the Senate will resume work this week on Medicare physician payments (H.R. 4302) and unemployment insurance (H.R. 3979). The House will consider a measure (H.R. 2575) amending full-time employment status under the Affordable Care Act, providing aid to Ukraine (H.R. 4125), and changing the budget process (H.R. 1874).

Climate issues continue to develop on the international front as well. The Intergovernmental Panel on Climate Change [released](#) March 31 its fifth assessment of climate change science, detailing the impacts, adaptation, and vulnerability of climate change. The report is designed to help inform United Nations negotiators working to craft the 2015 international climate treaty in Paris. The IPCC released a report on the physical science of climate change in September, and will release in April a report on climate change mitigation in Berlin, and a synthesis report in October in Copenhagen. Urging immediate action, today's report concludes that climate change has already had significant global impacts, and issues with water access, crop yields, human health, and extreme weather pose serious threats, especially to the world's poorest regions.

CONGRESS

ENR Exports Hearing

The Senate Energy and Natural Resources Committee held a hearing March 25 to consider energy exports, at which new committee Chair Mary Landrieu (D-LA) signaled a new course for the committee under her leadership: focusing on energy development.

Bird Protection Law Enforcement Defended

Testifying before the House Natural Resources Committee March 26, U.S. Fish and Wildlife Service Director Daniel Ashe said that the agency does not favor any energy industry when enforcing bird protection laws. Members of the committee had charged that the agency favored the wind energy industry over the oil and gas industry.

ENR Approves Nominees

The Senate Energy and Natural Resources Committee approved March 27 the nominations of Rhea Suh, an Interior Department policy and budget official, to be the assistant secretary for fish, wildlife, and parks, and Janice Schneider, an environmental attorney, to be the Interior Department's assistant secretary for land and minerals management.

ENR Agenda

Senate Energy and Natural Resources Committee Chair Mary Landrieu (D-LA) unveiled March 27 her committee agenda. The committee will examine the reliability and security of the electricity grid, nuclear waste storage, permit streamlining, natural resources revenue, energy infrastructure, energy exports, increasing domestic energy production, and liquefied natural gas.

Yucca Evaluation

Representative John Shimkus (R-IL) told the Department of Energy and the Nuclear Regulatory Commission March 27 that he will examine the necessary actions the agencies must complete for licensing Yucca Mountain and restarting the nuclear waste repository program.

Wood Stove NSPS Concerns

Senators Susan Collins (R-ME) and Angus King (I-ME) submitted [comments](#) March 27 to the Environmental Protection Agency saying that the agency's proposal to clean up the next generation of woodstoves and wood heaters would increase consumer heating costs, thus discouraging consumers from purchasing new, more efficient versions. Senator John Thune (R-SD) submitted [comments](#) charging that manufacturers might pass on additional costs to consumers.

Grid Security Evaluation Sought

Senate Energy and Natural Resources Committee Chair Mary Landrieu (D-LA) and Ranking Member Lisa Murkowski (R-AK) sent a letter March 27 asking the Department of Energy's inspector general to examine the leak of internal Federal Energy Regulatory Commission information on potential physical vulnerabilities to the country's electric grid to the Wall Street Journal.

Committee Approves Justice Environmental Post

The Senate Judiciary Committee advanced March 27 John Cruden's nomination to be assistant attorney general for environment and natural resources. Mr. Cruden, president of the Environmental Law Institute and former Justice Department official, was nominated December 19 and would replace Ignacia Moreno, who stepped down last June.

Legislation Introduced

Representative Henry Waxman (D-CA) and Senator Ed Markey (D-MA) introduced legislation (H.R. 4298, S. 2158) March 26 to give the Federal Energy Regulatory Commission more authority to protect the electric grid from physical, cyber, electromagnetic pulse, and other threats.

Upcoming Hearings

The House Foreign Affairs Terrorism, Nonproliferation, and Trade Subcommittee will hold a hearing April 2 to discuss U.S. energy trade policy.

The Senate Appropriations Subcommittee on Energy and Water Development will hold a hearing April 2 to consider proposed fiscal year 2015 budget estimates for the Department of Interior.

The House Appropriations Energy and Water Development Subcommittee will hold a hearing April 2 to consider the fiscal year 2015 budget request for the Department of Energy. Energy Secretary Ernest Moniz will testify.

The House Energy and Commerce Subcommittees on Energy and Power and Environment and the Economy will hold a joint hearing April 2 to consider the Environmental Protection Agency's fiscal year 2015 budget request. Environmental Protection Agency Administrator Gina McCarthy will testify.

The House Energy and Commerce Subcommittee on Energy and Power will consider April 3 fiscal year 2015 budget estimates for the Department of Energy.

The House Natural Resources Committee will hold a hearing April 3 to consider the Department of Interior's fiscal year 2015 budget request. Interior Secretary Sally Jewell will testify.

ADMINISTRATION

US-EU Climate Cooperation Pledge

President Obama, European Union Council President Herman Van Rompuy, and European Commission President Jose Manuel Barroso released a [joint statement](#) March 26 reaffirming their commitment to negotiating an ambitious 2015 global climate agreement.

Methane Emission Reductions

The White House unveiled March 28 a [strategy](#) to reduce methane emissions, including limits for new landfills and coal mines operating on public lands. The Environmental Protection Agency will gather technical advice this spring to guide its decision on whether to pursue methane regulations for existing landfills and the oil and gas sector.

Environmental Goods Negotiations Comments

The Office of the U.S. Trade Representative announced March 28 that written comments on domestic interests and priorities with respect to negotiations on a World Trade Organization Environmental Goods Agreement to eliminate tariffs on a number of environmental goods are due May 5. The office will hold a hearing on the initiative June 5.

DEPARTMENT OF COMMERCE

Vietnam Wind Tower AD Reevaluation

The Court of International Trade ruled March 27 that the Department of Commerce must reevaluate several of its valuations for factors of production made during its antidumping duty investigation into utility-scale wind towers from Vietnam. The agency's remand determinations are due May 27.

DEPARTMENT OF ENERGY

EERE Strategic Plan Forthcoming

The Energy Department's Office of Energy Efficiency and Renewable Energy is likely to release the first strategic plan for the office in 12 years the week of April 14.

ENVIRONMENTAL PROTECTION AGENCY

Categorical Exclusions Expanded

The Environmental Protection Agency issued a proposed [rule](#) March 24 that would expand the types of materials that could be burned in boilers or solid waste incinerators under the February 2013 nonhazardous secondary materials rule. Under the proposed rule, construction and demolition wood, paper recycling residuals, and creosote-treated railroad ties would be regulated as fuels rather than solid wastes.

Jobs Impact of GHG Rules

Murray Energy filed a lawsuit March 24 in the U.S. District Court for the Northern District of West Virginia asking the court to compel the Environmental Protection Agency to conduct a review of potential job losses caused by regulations such as the proposed carbon dioxide performance standards for new power plants and air toxics emissions limits for industrial boilers. Section 321(a) of the Clean Air Act requires the agency to evaluate the impacts its regulations will have on plant closures and employment levels, and the coal companies charge that the agency failed to conduct a sufficient evaluation.

Court Deferential to Agency on Climate Change Priorities

The U.S. Court of Appeals for the District of Columbia Circuit told WildEarth Guardians during oral arguments March 25 that it is deferential of the Environmental Protection Agency's decision not to undertake an endangerment finding for coal mines, as well as how the agency chooses to allocate its resources as it addresses climate change, citing a lack of resources.

Biomass Emissions in Permits

Following a 2013 ruling from the U.S. Court of Appeals for the District of Columbia Circuit striking down an exemption for biogenic emissions, the Environmental Protection Agency is beginning to address greenhouse gas emissions from biomass in permits. The Environmental Appeals Board [ordered](#) the agency March 25 to update the

emission control requirements in a Prevention of Significant Deterioration permit issued to Energy Answers Arecibo to include biogenic emissions. The court has extended the deadline to request a rehearing in the case until after the Supreme Court issues its greenhouse gas permitting decision.

Reduction to Increase Emissions

The Biotechnology Industry Organization released a [study](#) March 26 concluding that the Environmental Protection Agency's plan to reduce the 2014 renewable fuel standard could increase domestic greenhouse gas emissions by as much as 1 billion tons CO₂ through 2022.

2014 RFS Requirement Reduction

Environmental Protection Agency Administrator Gina McCarthy said March 28 that the administration remains "committed to biofuels" despite the proposed reduced ethanol mandate under the 2014 renewable fuel standard.

FutureGen Comments Sought

The Environmental Protection Agency opened public [comment](#) March 31 on proposed permits for the FutureGen Industrial Alliance Inc. to inject CO₂ into underground storage near Jacksonville, Illinois. The comment period will end May 15.

FEDERAL ENERGY REGULATORY COMMISSION

13 LNG Export Terminal Projects

Federal Energy Regulatory Commission Acting Chair Cheryl LaFleur told the Natural Gas Roundtable March 27 that ten liquefied natural gas export projects are in the permitting stage, and three are in the pre-permitting stage.

INTERNATIONAL

IEA Energy Future Report

The Netherlands [joined](#) March 24 an initiative of the United States, the United Kingdom, Denmark, Finland, Iceland, Norway, and Sweden in an effort to end public financing for new coal-fired power plants overseas. The Netherlands and the United States are working to promote a technology-neutral standard within the Organization for Economic Cooperation and Development Export Credit Group that limits support for fossil fuel power plants by export credit agencies.

US and China Climate Change Leadership

President Obama told Chinese President Xi Jinping March 24 that the United States and China needed to work together to set an example on reducing GHG emissions ahead of the 2015 international climate change negotiations.

Air Pollution Causes Seven Million Deaths a Year

The World Health Organization released a report March 25 finding that 7 million people around the globe die each year from exposure to air pollution, making it the world's largest environmental health hazard. The report concluded that 4.3 million deaths each year are attributable to household air pollution, mostly caused by exposure to smoke and soot from indoor cooking and heating, while 3.7 million deaths occur each year from exposure to outdoor air pollution such as vehicular and industrial emissions.

Business and Environment Linked

Speakers at the Globe 2014 environment and business conference in Vancouver said March 26 that adapting to climate change now would be much more economical for governments than mitigating issues in the future, and would offer long-term benefits for industry. United Nations Framework Convention on Climate Change Executive Secretary said that climate issues are also economic issues.

Additional Time for Canada on WTO Compliance

Canada reached an agreement March 26 with the European Union and Japan to provide ten additional weeks to comply with a World Trade Organization ruling striking down local content requirements in Ontario's feed-in tariff program. The compliance deadline will now be June 5.

IEA Energy Future Report

The International Energy Agency's Renewable Energy Technology Deployment released a [report](#) March 27 finding that the industrial world would need to undergo a "major redirection" of energy policy to principally rely on renewable energy sources by 2050. The paper points to significant technological, economic, and political hurdles to

a renewable energy future, particularly a lack of investment in carbon pricing systems needed to reach such an economy.

STATES

NJ ETS Regs

The New Jersey Superior Court Appellate Division ruled March 25 that New Jersey's withdrawal from the Regional Greenhouse Gas Initiative in 2012 did not automatically render inoperative the regulations that established a CO2 trading program to enable the state's participation in the initiative. The court directed the Department of Environmental Protection to formally repeal the rules or amend them to establish that they only apply when New Jersey is an active RGGI participant.

KS RES Repeal Underway

The Kansas Senate approved March 25 a repeal of the state's renewable energy standards for electric utilities. The measure now goes to the House.

Fracking Risks Collaboration

Regulators from Kansas, Oklahoma, Ohio, and Texas met for the first time March 27 to begin collaborations on combatting the increasing risks of earthquakes tied to the disposal of wastewater from fracking. The states plan to develop a set of common procedures to monitor for earthquakes, investigate their cause, and draft regulations to prevent them.

West Coast EV Success

California Environmental Protection Agency Secretary Matt Rodriquez said March 27 that an October 2013 agreement between California, Oregon, Washington, and British Columbia to collaborate on climate policies could produce a dependable fueling infrastructure for electric vehicles on the West Coast. The Pacific Coast Collaborative has not yet yielded any specific project or program, but each jurisdiction believes the partnership offers opportunities to increase the impact of their individual initiatives.

ME Rejects Wind Amendments

Maine rejected two bills March 27 to change the state's wind energy laws aimed at ensuring that projects economically benefit the state and don't harm its natural resources.

ME Rejects Wind Amendments

Indiana Governor Mike Pence (R) said March 27 that he will allow the statewide energy efficiency program to end, and that he will propose an alternative program for consideration next year. He said that he would allow a measure ending the Energizing Indiana to become law without his signature because he was not satisfied with the current program, but that he was disappointed that lawmakers did not offer a replacement for it.

MISCELLANEOUS

Costly NRDC Power Plant Proposal

National Economic Research Associates on behalf of the American Coalition for Clean Coal Electricity released a [report](#) March 24 finding that the Natural Resources Defense Council proposal to regulate CO2 emissions from existing power plants could cause substantial increases in retail energy prices and significant job losses.

Southern Co. to Report RE Investments

Southern Company agreed with shareholders March 28 to report on how the utility is investing in renewable energy. The company will complete a report before its annual shareholder meeting describing existing and planned projects for renewable energy and distributed generation that will come online by 2015.

More New Solar than Wind

Clean Edge released a [report](#) last week concluding that the world installed more photovoltaic solar last year, 36.5 GW, than wind, 35.5 GW, for the first time since tracking began in 2000. The shift is due to fewer wind installations in the United States and increased solar investments in China, Japan, and the United States.

DG Growing

The Institute for Local Self-Reliance issued a [paper](#) last week finding that distributed energy storage is primed to grow significantly over the next decade.

Cost of Extreme Weather Events

The Center for American Progress released a [paper](#) last week finding that nine extreme weather events in 2013 caused at least \$1 billion in damage, inflicted a total of \$20 billion in damage, and killed 114 people. Citing a Federal Emergency Management Agency hazard mitigation figure, the paper concludes that direct adaptation assistance provisions in President Obama's proposed \$1 billion climate resilience fund would save federal funds because every \$1 investment in resilience reduces disaster recovery costs by \$4.

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