



## ML Strategies Update

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## Energy & Environment Update

### ENERGY AND CLIMATE DEBATE

With just over a week until election day, Congressional campaigns are in their final days, and several races remain too close to call. While Congress prepares for a brief but intense Lame Duck session, stay tuned for election updates.

In the meantime, climate negotiators spent last week in Bonn, Germany, with the last United Nations Framework Convention on Climate Change summit prior to the annual international climate negotiation this December in Lima, Peru. The third round of the Bonn Climate Change Conference concluded October 25, though negotiators reached no concrete result, leaving a busy schedule for the 20<sup>th</sup> COP/MOP in a few weeks. Almost 1,200 negotiators from 176 countries and organizations gathered last week to negotiate a new climate agreement, which is on target to be approved in Paris next December and to become effective in 2020. Last week's talks failed to reach a conclusion on elements of the 2015 agreement and what should be included in the nationally determined contributions, which governments are expected to submit by early next year.

The Ad-hoc Working Group on the Durban Platform for Enhanced Action released [draft text](#) October 24, focusing on key areas in regard to the role of Intended Nationally Determined Contributions within the planned 2015 global agreement. The working group left many of the difficult related issues unaddressed, such as whether they should include matters that go beyond reducing greenhouse gas emissions, whether rich and poor, developed and developing nations should have different types of obligations, whether INDCs should be legally binding, and how mitigation targets can be increased before the 2015 agreement is finalized.

The European Union approved October 24 greenhouse gas emission reduction targets for 2030. European Union leaders committed to reducing CO2 emissions by at least 40 percent by 2030 compared with 1990 levels, which will be legally binding for all member states. The bloc also agreed to increase the share of renewables in the energy mix to 27 percent compared with 1990 levels, as well as to improve energy efficiency by 27 percent.

The Intergovernmental Panel on Climate Change meets this week in Copenhagen to complete the last portion of its fifth assessment on global climate change, a synthesis of three reports released over the past year and a half on the physical science of climate change, adaptation and vulnerability, and potential mitigation efforts. The synthesis report, scheduled to be released this coming Sunday, is intended to be a resource for policymakers who are devising climate rules, and will be condensed further into a Summary for Policy Makers. The report provides a strong case for the need to act immediately to address climate change.

## CONGRESS

### Recess

Congress is in recess until after the November 4 elections.

### Republican Senate May Pass House Measures

House Majority Leader Kevin McCarthy (R-CA) released a memorandum October 22 predicting that a Republican-controlled Senate would approve House-passed bills to eliminate the need for presidential permits for cross-border energy projects like the Keystone XL pipeline, establish deadlines for federal agencies to approve permits for constructing new natural gas pipelines, and streamline the permitting process for certain mining projects. Majority Leader McCarthy also said that the House will continue regulatory reform efforts that have stalled in the Senate.

### EPW Fracking Report

The Senate Environment and Public Works Committee Republican staff released a [report](#) October 23 charging that the Obama administration and environmental advocates have repeatedly misled the public about the benefits and risks of fracking.

### Climate Policy Event Forthcoming

The Institute for Policy Integrity will host an event October 28 entitled "The Future of U.S. Climate Policy: Coal, Carbon Markets, and the Clean Air Act." Keynote speakers include Senator Sheldon Whitehouse (D-RI) and Environmental Protection Agency Associated Administrator for the Office of Policy Joel Beauvais.

## DEPARTMENT OF ENERGY

### Emissions Increased

The Energy Information Administration released a [report](#) October 22 finding that domestic energy-related CO2 emissions increased 2.5 percent last year due to colder weather, which lead to an increase in residential and commercial energy demand for heating. Energy-related CO2 emissions increased from 5,267 MMT in 2012 to 5,396 MMT in 2013. Emissions last year were still ten percent below their 2005 level of 5,999 MMT.

### Pipeline CH4 Leak Reductions

Department of Energy Deputy Assistant Energy Secretary for Oil and Natural Gas Paula Gant told a joint meeting of the Gas Pipeline Advisory Committee and the Liquid Pipeline Advisory Committee October 22 that the agency wants to play an active role in hastening the pipeline industry's methane leak reductions through research and regulation. The agency is working with the Pipeline and Hazardous Materials Safety Administration, the National Association of Regulatory Utility Commissioners, and industry to identify research opportunities. The agency is also considering regulating compressor efficiency.

### \$53 Million for Solar R&D

The Department of Energy awarded October 22 [\\$53](#) million for [40](#) research and development [projects](#) aimed at reducing the cost of solar power. The agency said that long-term investments and partnerships have contributed to a 50 percent drop over the last three years in photovoltaic panel prices.

### \$9 Million for Commercial Building Efficiency

The Department of Energy [announced](#) October 23 [\\$9](#) million to improve the energy efficiency of hotels, hospitals, offices, and other commercial buildings. The funding will aim to implement market-ready solutions across the country to improve commercial building efficiency, with a goal of demonstrating 20 percent savings or more across a variety of approaches.

### Conservation Standards Meeting

The Department of Energy Office of Energy Efficiency and Renewable Energy will hold a meeting October 29 on energy conservation standards for several consumer products and certain commercial and industrial equipment, including packaged terminal air conditioners and packaged terminal heat pumps.

## DEPARTMENT OF TRANSPORTATION

### Wind Interferes with Radar

The Federal Aviation Administration did not approve October 9 the North East Township wind farm near Erie International Airport, finding that turbines could interfere with radar. The agency had previously approved the farm, but when the approval expired in May, it revised the radar safety question. Pioneer Green Energy affiliate North East Wind I LLC intended to build up to 67 turbines, some up to 450 tall.

## DEPARTMENT OF TREASURY

### Solar Payment Clarification Sought

An Austin, Texas homeowner sent a [letter](#) October 20 requesting clarification on tax rules puts the Internal Revenue Service in the middle of a controversy over how to compensate homeowners for the electricity their solar panels produce. Experts are divided on whether the agency will rule that credits given by a utility in exchange for electricity generated as part of a value-of-solar tariff is taxable income, and whether the pricing structure excludes homeowners from claiming an energy efficiency tax credit.

## ENVIRONMENTAL PROTECTION AGENCY

### CO2 Modified Plant Rule Comments

The Southeastern Legal Foundation, several states, and industry groups submitted [comments](#) October 16 charging that Environmental Protection Agency proposed standards for modified power plants would illegally require plants to meet CO2 standards for both existing and modified units. The comments also found that the agency has not demonstrated that the proposed standards can be achieved. The agency is expected to finalize the rule in June 2015.

### Fracking's Drinking Water Impact

Philip Strobel, Acting Director of the Environmental Protection Agency Region 8 National Environmental Policy Act Compliance and Review Program in the Office of Ecosystems Protection and Remediation, sent a letter October 17 to a forest supervisor in the Arapahoe and Roosevelt National Forests and Pawnee National Grassland saying that the agency is estimating it will not release a draft final form of a study on fracking's impact on drinking water until early next year. The agency originally intended to issue initial results in 2012, with a final report in 2014.

### GHG Permitting Rule Remand Sought

The Environmental Protection Agency submitted a [motion to govern future proceedings](#) to the U.S. Court of Appeals for the District of Columbia Circuit October 21 asking the court to remand but not vacate its tailoring rule for correction following the Supreme Court's decision limiting the scope of the tailoring rule. States and industry groups opposed to the program [argue](#) that the agency must issue a new permitting rule. Responses to the motions are due November 21.

### E15 Labeling Challenge

The U.S. Court of Appeals for the District of Columbia Circuit dismissed October 21 an American Petroleum Institute and Engine Products Group challenge to a final Environmental Protection Agency regulation on E15 labeling, finding that the groups failed to establish standing. Several challenges to the regulations have suffered similar flaws that have stopped the court from considering the merits in the cases.

### Regional Haze Plan Upheld

The U.S. Court of Appeals for the Tenth Circuit [upheld](#) October 21 the Environmental Protection Agency's decision allowing New Mexico, Utah, and Wyoming to adopt a regional cap and trade program to reduce regional haze, rejecting challenges from Earthjustice.

### Biodiesel Reporting Obligations

The Biobased and Renewable Products Advocacy Group submitted [two petitions](#) to the Environmental Protection Agency October 21 asking it to give them the same exemption from reporting requirements as petroleum-based diesel manufacturers. If the agency rejects the requests, biodiesel manufacturers will have to gather and report significantly more information about their chemicals than do manufacturers of similar petroleum-derived chemicals.

### Sustainability Value

Former Environmental Protection Agency official and Yale Law School professor of environmental law and policy Daniel Esty told an Environmental Law Institute event October 21 that companies should better [communicate](#) how their sustainability initiatives create business value.

### RFS Meetings Lawsuit

Citizens for Responsibility and Ethics in Washington filed a [lawsuit](#) in the U.S. District Court for the District of Columbia October 22 against the Environmental Protection Agency after the agency failed to provide additional documents about meetings with petroleum companies on the 2014 renewable fuel standard.

### WV CPP Compliance

West Virginia University College of Law's Center for Energy and Sustainable Development and Downstream Strategies released a [report](#) October 22 detailing how West Virginia could meet its state rate under the

Environmental Protection Agency's Clean Power Plan. The report recommends strengthening energy efficiency programs, increasing solar and wind power investments, and improving coal-fired power plants.

### **CSAPR Hold Lifted**

The U.S. Court of Appeals for the District of Columbia Circuit lifted a hold October 23 on the Environmental Protection Agency's December 2011 Cross State Air Pollution Rule, just before the first phase of the rule was scheduled to take effect. The Supreme Court upheld the rule in April. The court still has additional issues to address that were not considered by the Supreme Court, but the litigation is not expected to undermine the overall rule.

### **Nuclear Energy's Contribution**

Former Environmental Protection Agency Administrator Carol Browner said during a Nuclear Matters event October 24 that moving away from nuclear energy while trying to address climate change would be "irresponsible." High operating and maintenance costs at aging nuclear reactors have led utilities to close five reactors early, with more shutdowns on the horizon, and the industry is concerned about the Clean Power Plan's treatment of nuclear energy, particularly existing reactors.

### **CPP Lawsuit Hold Requested**

The Environmental Protection Agency asked the U.S. Court of Appeals for the District of Columbia Circuit October 24 to toss Murray Energy's lawsuit over its proposed Clean Power Plan, arguing that the rule will not be ripe for judicial review until the agency issues the final regulation next June. The agency is taking public comment on the rule until December 1.

### **Alternative Emissions Verification**

The Environmental Protection Agency published a [final rule](#) in the Federal Register October 24 requiring 23 industries to use an alternate reporting tool to protect confidential business information when they report their greenhouse gas emissions. The verification tool, which will be included in the agency's electronic greenhouse gas reporting tool, will use the data to determine a facility's emissions and generate a verification summary for the agency as part of a mandatory reporting program. The rule will take effect November 24.

### **CPP Nuke Revision**

Department of Energy Assistant Secretary for Nuclear Energy Pete Lyons said October 24 that he hopes that a final version of the Environmental Protection Agency's Clean Power Plan might be altered to give states credit for the nuclear reactors currently under construction.

### **Georgetown Climate Conference**

Environmental Protection Agency Administrator Gina McCarthy will speak October 24 at the Georgetown University's McCourt School of Public Policy third annual LEAD Conference in a discussion called "The Power of Opinion: How Americans' Preferences on Energy Point a Way Forward on Climate Change."

## **NUCLEAR REGULATORY COMMISSION**

### **Macfarlane to Depart**

Nuclear Regulatory Chair Allison Macfarlane, who replaced the agency's controversial former leader Gregory Jaczko in 2012, announced October 21 that she will resign at the end of the year. She will take a position with George Washington University, effective January 1. Former general counsel Stephen Burns is considered the frontrunner for the chairmanship; the Senate confirmed him in September, and he is scheduled to be sworn into office November 5.

## **INTERNATIONAL**

### **Chinese Compliance Tightened**

China's Ministry of Environmental Protection released implementation guidelines October 17 finding that amendments to the nation's Environmental Protection Law that takes effect January 1 will increase the burden on companies operating in the country and could include daily fines for industrial polluters.

### **British Columbia Energy Legislation**

British Columbia introduced its policy on greenhouse gas emissions in the legislature October 20, and followed the next day with a tax specific to the liquefied natural gas industry.

### **LDK Solar Bankruptcy**

LDK Solar Company, the Chinese solar cell manufacturer that defaulted on its bonds this year, filed for Chapters 11 and [15](#) bankruptcy protection October 21 in the United States to help carry out restructurings already under way in

Hong Kong and the Cayman Islands.

## STATES

### ND CH4 Challenge

The North Dakota Department of Health Environmental Health Chief Dave Glatt said October 19 that methane emissions are likely to be the next big environmental issue to face the state's thriving oil industry. In light of potential regulations, he recommended that the state consider voluntary actions in the near future.

### CA Ag CH4 Reductions Possible

California Air Resources Board Chair Mary Nichols told a Center for American Progress forum on state and federal efforts to curb methane emissions October 20 that California is [considering](#) reducing methane from dairy operations and other agricultural sources to help the state meet its target for reducing greenhouse gas emissions to 1990 levels by 2020.

### Solar Capacity Increase

The Solar Energy Industries Association released a report October 20 finding that over the past two years, the top 25 domestic corporate solar users have more than doubled their capacity. Together, the companies produced enough electricity in 2013 to power more than 115,000 homes. Wal-Mart Stores produced 105 MW last year at 254 locations in the United States; eight of the top 13 companies are big-box retailers.

### NY Fracking Report Forthcoming

New York Governor Andrew Cuomo (D) reiterated during a gubernatorial debate October 22 that the state health commissioner and the state Department of Environmental Conservation will release a study on the health and environmental impacts of fracking later this year. The study has been ongoing since 2012, and an effective fracking moratorium has been in place pending its release.

### CA Electric Vehicles

California Air Resources Board Chair Mary Nichols said October 23 that more than 260,000 electrical vehicles have been sold in California and the seven other states that joined together a year ago to put 3.3 million zero-emission vehicles on the road by 2025. Chair Nichols directed agency staff October 23 to consider alternatives to a [proposal](#) aimed at easing obligations for five automakers considered intermediate-volume manufacturers under the state's zero emission vehicle mandate.

### CA Solar Acquired

Southern Power acquired last week the Solar Gen 2 facility in California from First Solar Inc. The plant is expected to generate enough power to serve more than 60,000 homes.

## MISCELLANEOUS

### Sustainability Oversight Import Increases

The National Association of Corporate Directors' released a handbook, "[Oversight of Corporate Sustainability Activities](#)," this month, finding that sustainability activity oversight is increasingly becoming a board level issue.

### ITC Push

The Solar Energy Industries Association said last week that solar developers facing a 2016 deadline to complete projects in order to receive the investment tax credit are beginning to cancel large projects, motivating the industry to renew its effort to extend the incentive.

### Insurers Not Climate Prepared

Ceres released an [analysis](#) October 22 finding that insurance companies demonstrate a significant lack of preparedness for addressing climate change risks posed to their businesses. The report concludes that health insurers are the least prepared within the industry, despite evidence that climate relate impacts will influence morbidity and mortality trends.

### Expensive Energy Storage

Industry executives, including the U.S. Eco Solutions unit for Panasonic Corporation, said October 23 at the Solar Power International convention that using batteries to retain energy from rooftop solar systems will be too expensive for at least another two years. As a result, many homeowners who add solar panels will still be without electricity during blackouts, even after an 80 percent battery cost decline over the last decade.

## **CH4 Briefing**

The Environmental and Energy Institute will hold a briefing October 30 to examine methane emissions from the oil and gas sector, including the current state of research on methane leakage, technologies to detect and reduce emissions, policy and regulatory options, and business implications and opportunities.

## **Solar Benefits**

3M Company, Cisco Systems Inc., Kimberly-Clark Corporation, and the National Geographic Society have begun offering their employees discounts on solar panels and their installation as an employee benefit. About 100,000 employees are eligible for the benefit, and another 1,000 may take advantage of the discounts as well.

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