



ML Strategies Update

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Energy & Environment Update

ENERGY AND CLIMATE DEBATE

The Senate is in session this week while House members are on a scheduled district work period. While the lower chamber is away, the Senate is likely to consider the Iran Nuclear Agreement Review Act of 2015, the Conference Report to the fiscal year 2016 budget, and other measures. A few energy and environment hearings are scheduled, as detailed below.

Senate Energy and Natural Resource Committee Ranking Member Maria Cantwell (D-WA) is leading the effort to address energy tax extenders by reinstating, extending, or making permanent a handful of expired clean energy tax credits, including potentially incorporating them into a broad energy bill she and Committee Chair Lisa Murkowski (R-AK) are discussing and beginning to hold hearings about – the first of which was held last week and focused on energy efficiency issues (see below). Earlier this year, Senator Cantwell's staff considered how to build on what then-Senator Max Baucus proposed last Congress on an industry neutral or performance based energy tax policy. Two of the Senate Finance Committee Working Groups, the Business Income Tax Working Group, co-chaired by Senators John Thune (R-SD) and Senator Ben Cardin (D-MD), and the Community Development and Infrastructure Working Group, co-chaired by Senators Dean Heller (R-NV) and Michael Bennet (D-CO), are claiming jurisdiction over the energy portions of tax reform. With comprehensive tax reform increasingly unlikely before the 2016 election cycle, Senator Cantwell is focusing her efforts on the tax extender pieces, including the production tax credit and the investment tax credit. She has already offered an amendment a number of times this session to make the clean energy tax provisions permanent, and plans to continue to offer the language to any moving legislation.

The Senate Finance Committee posted April 29 nearly 1,500 public comment [submissions](#) to the tax reform working groups. The working groups plan to convene in the first half of the month to present their agreements, and are scheduled to report their final recommendations to Committee Chair Orrin Hatch (R-UT) and Ranking Member Ron Wyden (D-OR) by May 25.

CONGRESS

QER Hearing

Department of Energy Secretary Ernest Moniz told the Senate Energy and Natural Resources Committee April 28 that the administration needs to work with Congress to fund more than \$15 billion in new spending programs and tax credits in the Quadrennial Energy Review. The review outlines ways to modernized and update the nation's aging energy transmission, storage, and distribution infrastructure. The agency will release soon data rich appendices and over 30 analytical supporting documents that it solicited as input to the review's formation. Committee Chair Lisa Murkowski (R-AK) told Secretary Moniz during that the hearing that she would work to

include provisions of the review in the broader energy policy bill she plans to introduce this summer, and House Energy and Commerce Chair Fred Upton (R-MI) and Ranking Member Frank Pallone (D-NJ) have indicated interest in and desire to move forward with energy infrastructure legislation.

Secret Science

The Senate Environment and Public Works passed, 11-9, April 28 the Secret Science Reform Act (S. 544). The House passed a similar bill (H.R. 1030) March 18. President Obama has threatened to veto the legislation if it reaches his desk.

House Energy Bill

The House Energy and Commerce Committee released [draft legislation](#) April 23 to increase skilled workers in energy and manufacturing fields through increased training and education programs. The language is part of the broader energy bill committee Republicans are crafting. The committee released sections of the comprehensive energy legislation relating to [energy efficiency](#) and the Strategic Petroleum Reserve April 28, and the Subcommittee on Energy and Power held a hearing on them April 30. The energy efficiency section includes language that would repeal a federal requirement that all new and significantly renovated federal buildings phase out the use of fossil energy, directs the Federal Trade Commission to develop Energy Guide labels that promote smart grid capabilities, and prohibits the Department of Energy from finalizing certain gas furnace efficiency standards. Committee Democrats have already expressed opposition to the efficiency language.

EPA Approps Hearing

The Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies held a hearing April 29 at which Environmental Protection Agency Administrator Gina McCarthy testified. Several senators used the opportunity of the hearing to criticize the Clean Power Plan and the agency's Clean Water Act jurisdiction, as well as discuss Toxic Substances Control Act reform and the agency's recent wood-burning stove regulation. Senate Majority Leader Mitch McConnell (R-KY) said that as long as he retains his leadership position, he will make it difficult for the agency to move forward with the Clean Power Plan, citing Clean Air Act Section 102(c). Legal scholars have since suggested that Section 102 is unlikely to prevent states from joining interstate emissions trading programs because they could structure voluntary programs, similar to the Regional Greenhouse Gas Initiative's nonbinding agreements, that would likely avoid triggering requirements for congressional approval.

Ratepayer Protection Act

The House Energy and Commerce Committee approved Representative Ed Whitfield's (R-KY) draft Ratepayer Protection [Act](#) (H.R. 2042) April 29. The legislation allows states to opt out of the Environmental Protection Agency's Clean Power Plan if it would increase their utility rates or jeopardize reliability and allows states to postpone submitting their compliance plans until after all legal challenges to the proposed rules are exhausted.

Mini Efficiency Package

The House passed the Energy Efficiency Improvement Act of 2015 (S. 535) April 21. The Senate approved the legislation in late March. President Obama signed the measure into law April 30. The bill from Senators Rob Portman (R-OH) and Jeanne Shaheen (D-NH), creates a voluntary approach to encourage commercial building owners and tenants to reduce energy consumption, exempts certain electric resistance water heaters from Department of Energy regulations, and requires buildings leased by the government that are not Energy Star certified to chronicle their energy use. Senators Portman and Shaheen are pursuing broader energy efficiency legislation now.

Energy Efficiency Hearing

The Senate Energy and Natural Resources Committee held a hearing April 30 on 22 energy efficiency bills as panel leadership prepares to introduce a broad energy bill this summer. The hearing is the first of four that the committee will hold in the next month on the four titles of the energy package: efficiency, infrastructure, supply, and accountability.

Fracking Hearing

The Senate Environment and Public Works Subcommittee on Public Lands, Forests, and Mining held a hearing April 30 during which critics of the Bureau of Land Management's March fracking rule predicted that the rule will cause delays, increase costs, and result in lost opportunities for the oil and gas industry. The rule becomes effective June 24. Bureau of Land Management Director Neil Kornze said that the rule fulfills part of the agency's obligation to protect federal lands across the country, using the best management practices of the best state regulations, which will elevate regulation quality in 32 states that have oil and gas leases on federal lands.

Energy and Water Approps

House Republicans unveiled April 14 draft fiscal year 2016 energy and water [appropriations legislation](#) (H.R. 2028) that would provide \$35.4 billion for energy and water programs, \$1.2 billion above the fiscal year 2015 enacted level and \$633 million below President Obama's request. The package would provide \$28.9 billion for Department of Energy programs, including Yucca Mountain, but limits or excludes funding for numerous renewable energy and climate programs in President Obama's budget request. The bill would reduce the Office of Energy Efficiency and Renewable Energy's budget by \$266 million, would fund most of the agency's clean energy research and development, at \$1.7 billion, would fund the Office of Fossil Energy Research and Development at \$605 million, a \$34 million increase over enacted levels, and would provide \$936 million for nuclear energy research and development, a \$24 million increase over enacted levels. The House Appropriations Subcommittee on Energy and Water Development marked up and approved the measure April 15; the House Appropriations approved it on a voice vote April 22, and the House passed the measure May 1. Amendments to the measure include, among other things, barring the Department of Energy from regulating the energy efficiency of ceiling fans, residential furnaces, and light bulbs, and from considering greenhouse gas emissions as part of its approval process for liquefied natural gas export projects. The White House threatened last week to veto the measure.

Battery Storage Hearing

During a House Science Subcommittee on Energy hearing May 1, Chair Lamar Smith (R-TX), Representative Thomas Massie (R-KY), energy storage companies, and technology research experts agreed that large scale energy battery storage could provide utility cost-savings, resilience, and reliability.

Legislation Introduced

Senator Joe Donnelly (D-IN) introduced legislation (S. 1111) April 28 to equal treatment for utility special entities using utility operations-related swaps. Representative Doug LaMalfa (R-CA) introduced a companion measure (H.R. 2041) the same day.

Representative Ed Whitfield (R-KY) introduced legislation (H.R. 2042) April 28 to allow for judicial review of any final rule addressing carbon dioxide emissions from existing fossil fuel-fired electric utility generating units before requiring compliance with such rule, and to allow states to protect households and businesses from significant adverse impacts on electricity ratepayers or reliability.

Upcoming Hearings

The Senate Environment and Public Works Subcommittee on Clean Air and Nuclear Safety will hold a hearing May 5 on the legal implications of the Clean Power Plan.

The Senate Environment and Public Works Committee will hold a hearing May 6 on the Fish and Wildlife Service's fiscal year 2016 budget request and on endangered species legislation.

ADMINISTRATION

Japanese Visit

President Obama hosted Japanese Prime Minister Shinzo Abe for an official visit last week in Washington. The two commemorated April 28 the nearly 70 years since the end of World War II and discuss climate change, the Trans Pacific Partnership, Iran's nuclear activities, and other shared issues of concern.

DEPARTMENT OF ENERGY

Hydropower Capacity

The Department of Energy released a [report](#) April 27 on the capacity of hydropower to be a significant supplier of domestic energy. The hydropower market currently accounts for about seven percent of the country's energy production, mitigating about 200 MMT CO₂ a year and supporting about 55,000 jobs. About 77 GW of untapped hydropower capability exist in the country.

Utility Energy Partnership

The Partnership for Energy Sector Climate Resilience, a group of 17 utility companies working to improve energy infrastructure resilience, met for the first time April 30 with Department of Energy officials. The partnership, announced in conjunction with the Obama Administration's release of the Quadrennial Energy Review, is aimed at accelerating investment in policies, practices, and technologies that will support a resilient domestic energy infrastructure.

\$8.2 Million for Efficient Lighting

The Department of Energy [awarded](#) May 4 more than \$8.2 million to nine research and development projects that will support solid-state lighting core technology research, product development, and American manufacturing. The projects will accelerate high-quality light emitting diode and organic light emitting diode products, which are ten times more energy efficient, last 25 times longer, and substantially reduce the amount of lamp toxins in landfills compared to conventional incandescent light bulbs.

DEPARTMENT OF INTERIOR

TransWest Express Project

The Bureau of Land Management, the Bureau of Reclamation, the Utah Reclamation Mitigation Conservation Commission, the Western Area Power Administration, and the Forest Service released May 1 a final [environmental impact statement](#) with a preferred alternative that would allow for an over 700-mile extra-high-voltage electric transmission system crossing four western states. The TransWest Express, LLC, would cross Wyoming, Colorado, Utah, and Nevada.

ENVIRONMENTAL PROTECTION AGENCY

CPP Investment

Environmental Protection Agency Administrator Gina McCarthy said during the April 28 Columbia University Global Energy Summit that the Clean Power Plan is intended to drive utility power markets toward what she termed the "inevitable" low carbon future. She said that the proposed rule is aimed at providing market certainty that allows utilities to invest in low carbon generating sources.

CPP Modeling

The Bipartisan Policy Center released [modeling results](#) April 28 finding that the success of the Environment Protection Agency's proposed Clean Power Plan could hinge on how states develop compliance strategies and whether the rule provides them the necessary time to develop regional plans. The data show that regional approaches are more cost effective and allow states more flexibility to adapt to changing markets. The report finds that mass-based targets reduce total compliance costs, while rate-based targets reduce wholesale electricity costs.

MATS Reconsiderations Denied

The Environmental Protection Agency [denied](#) April 30 all remaining petitions to reconsider its 2012 Mercury and Air Toxics Standards for power plants, including requests from the Utility Air Regulatory Group, Southern Co., Earthjustice, and other groups, to change portions of the rule. Most American power plants were required to come into compliance with the rule by April 16, but more than 170 coal fired power plants received an up to one year extension to install the necessary pollution controls or cease operations. The agency previously reconsidered aspects of the rule, including changes to provisions covering startup and shutdown periods for electricity generating units. The final agency action can be challenged in the U.S. Court of Appeals by June 29.

PSD Updated

The Environmental Protection Agency issued a [direct final rule](#) April 30 updating its prevention of significant deterioration provisions allowing states to rescind some greenhouse gas permits in accordance with the Supreme Court's decision to limit the scope of the permitting program. The rule allows states to rescind PSD permits issued to industrial sources based solely on their greenhouse gas emissions, and will take effect 60 days after publication.

RICE NESHAP

The U.S. Court of Appeals for the District of Columbia Circuit ruled May 1 that the Environmental Protection Agency must reconsider parts of its 2013 emissions rules for backup generators used in emergency demand response programs. The court ruled that the agency's decision to increase the exemption threshold from 15 hours per year to 100 hours per year was not appropriate because it did not properly respond to reliability and efficiency concerns during the rulemaking process. The rest of the rules remain in place, and the agency asked the court to retain the 100-hour threshold until it can issue interim standards.

CPP Health Benefits

Nature Climate Change published a [study](#) May 4 finding that a carbon dioxide emissions reduction plan similar to the Environmental Protection Agency's Clean Power Plan results in more significant public health benefits than other options, including a carbon tax. The research concludes that the plan would lead to higher CO2 emissions by 2020 than a carbon tax, but would prevent about 3,500 premature deaths a year, compared to 3,200 under a carbon tax.

SO2 Designation Schedule

Arizona, Kentucky, Louisiana, North Dakota, Nevada, and Texas filed a notice of appeal May 1 in the U.S. District Court for the Northern District of California seeking a review of a March consent decree between the Environmental Protection Agency and the Sierra Club and the Natural Resources Defense Council that asks for the agency to take a phased approach to making remaining attainment designations for national sulfur dioxide standards. The consent decree requires the agency to promulgate rules making area designations for the 2010 national ambient air quality standards for SO₂ three times between July 2016 and December 2020.

FEDERAL ENERGY REGULATORY COMMISSION

Order No. 745

The Supreme Court agreed May 4 to hear the Federal Energy Regulatory Commission's appeal over its demand response rule, Order No. 745. Oral arguments will take place in the fall, and the commission's rule will continue to apply until the Supreme Court rules. Justice Samuel Alito recused himself from consideration of the case. The U.S. Court of Appeals for the District of Columbia Circuit vacated the rule last year.

Cove Point Rehearings Denied

The Federal Energy Regulatory Commission denied requests May 4 from environmental groups and BP to reconsider its September 2014 approval of Dominion Cove Point LNG terminal in Maryland.

NUCLEAR REGULATORY COMMISSION

Streamlining Vote

The Nuclear Regulatory Commission will vote this week on how to streamline and downsize the agency. Commission staff proposed to the commissioners in February *Project Aim 2020*, which provides recommendations on how to streamline, downsize, and enhance the timeliness of the agency's regulatory decisions.

INTERNATIONAL

EU Transportation Emissions

The Official Journal of the European Union published April 25 a [directive](#) that establishes methods for calculating greenhouse gas emissions from transportation fuels sold in the European Union. The EU Fuel Quality Directive requires fuel suppliers to reduce the life cycle of their emissions by six percent per unit of energy by 2020 compared to 2010 levels. Member states must bring their national fuel quality reporting laws into line with the GHG reporting provisions of the directive by April 21, 2017.

EU Shipping Emissions

The European Parliament approved April 28 a [draft regulation](#) requiring shipping companies operating vessels more than 5,000 gross tons that dock at European Union ports to report their CO₂ emissions to the European Commission beginning in 2018, with the first report due April 30, 2019. The obligation will apply to journeys made to and from EU ports, regardless of the ship's country of origin or registration.

EU Biofuel Cap

The European Parliament approved April 28 a crop-based biofuel cap, saying that crop-based biofuels cannot account for more than seven of the ten percent of a 2020 European Union renewable energy transportation fuel target. The legislation also introduced for the first time the use of Indirect Land Use Change methodology, and the restriction is designed to encourage second-generation biofuels. Member states will have two years to implement the changes.

Chinese Shale Gas Subsidies

Citing industrial development policies, technology advancement, and cost changes, China announced April 29 that it will cut government subsidies for shale gas developers in the next five years as it encourages clean energy and natural gas production. Subsidies will be reduced to five cents per square meter from 2016 to 2018 and to three cents per square meter from 2019 to 2020.

STATES

No OK CPP SIP

Oklahoma Governor Mary Fallin (R) signed an [executive order](#) April 28 declaring that the state would not file a state implementation plan under the Environmental Protection Agency's Clean Power Plan. Governor Fallin vetoed a bill (S. 676) May 1 that would have required the state to develop an implementation plan to comply with the agency's proposed rule.

NY RE Delays

According to documents filed with the New York Public Service Commission April 28, two of the state's Renewable Energy Vision plan have been delayed by at least a month.

CA GHG Reductions

California Governor Jerry Brown (D) issued April 29 an executive order increasing the state's greenhouse gas emissions reduction goal for 2030 to 40 percent below 1990 levels, matching the recent European Union target. The state's longer-term goal is to reduce emissions to 80 percent of 1990 levels by 2050. The new benchmark puts California's emissions goal substantially below the Environmental Protection Agency's Clean Power Plan state rate target, which would require the state to reduce emissions by 23 percent from 2012 levels by 2030.

CA-Mexico Climate Cooperation

California Environmental Protection Agency Secretary Matthew Rodriguez and Mexico Ministry of Environment and Natural Resources Undersecretary Rodolfo Lacy announced a plan May 1 to implement the bilateral pact agreeing to collaborate on energy and climate issues that the governments [agreed](#) to last July. The plan outlines steps for action on air quality, clean vehicles, climate change, and wildfires as priority action areas.

SUSTAINABILITY

Sustainability Assessment

Tesla Motors Inc. Chief Executive Officer Elon Musk unveiled April 30 a suite of batteries to store electricity for homes, businesses, and utilities. The announcement marks the company's expansion beyond electric cars as it works to provide clean energy into a greener power grid.

MISCELLANEOUS

Climate Impacts

Nature Climate Change released a paper April 28 finding that global warming now accounts for roughly 75 percent of the world's unusually hot days and 18 percent of its extreme snow and rain. The report concludes that heavy storms and heat waves are occurring at least four times more often than they did before CO2 emissions increased global temperatures, which are now about 0.85 degree Celsius higher than before industrialization. The Department of Energy released a report April 21 finding that severe weather costs the American economy as much as \$33 billion a year.

Q1 Wind Growth

The American Wind Energy Association released a [report](#) April 30 finding that the United States added 131 MW of wind power in the first quarter of 2015. The country added 217 MW in the first quarter of 2014, though this quarter's low figure is followed by an announcement that there are 13,600 MW currently under construction, the second highest level ever. The majority of that construction is in Texas, with other significant growth in Illinois, Iowa, Kansas, New Mexico, North Dakota, and Oklahoma. Total domestic wind capacity now tops 66 GW.

Effective Carbon Tax

The World Resources Institute released a [report](#) April 30 finding that placing a tax on carbon pollution remains the most effective approach for reducing greenhouse gas emissions. The report concluded that a carbon tax could also generate revenue that Congress could use to reduce federal deficits and federal income taxes.

Climate Impacts

Bloomberg New Energy Finance released a report May 1 noting that wind-power developers are expected to install

a record 4.2 GW of offshore wind turbines this year, double the 2.1 GW added in 2013. Germany will lead

installations in coastal waters with more than 2.3 GW this year, followed by 1 GW from the United Kingdom. The report projected that total offshore wind power will reach 48 GW by 2020, growing at a compound 53 percent annual rate.

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