



## ML Strategies Update

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# Energy & Environment Update

## ENERGY AND CLIMATE DEBATE

It's a race to the end of the year, and the end of this week, for Congress, as it wraps up negotiations on tax extenders, the omnibus appropriations package, and other end of the year measures; for the Administration, as it works to finalize related issues; and for the international community, as the United Nations Framework Convention on Climate Change concludes its international climate negotiations in Paris this week.

Congress will need a few days beyond the December 11 deadline to finalize the omnibus spending deal, with policy riders providing the biggest obstacle to negotiating a final agreement. The measure may include a tax extenders package, which may take the form of a larger compromise agreement or something similar to the fairly straight two-year agreement the Senate Finance Committee approved this summer. Though the likelihood of accomplishing a broader package changes by the day, in addition to business extenders and middle class tax package issues, energy issues in some scenarios include lifting the crude oil export ban, extending, adding commence construction language, and gradually phasing out the production tax credit, the investment tax credit, and the 48C Advanced Energy Manufacturing Tax Credit, creating a capped investment tax credit for offshore wind, reauthorizing the Land and Water Conservation Fund, and other measures.

Once the final pieces fall into place, along with a customs bill and the potential final ironing out of TSCA and cybersecurity agreements, though these negotiations may await finalization in the new year, Congress is likely to depart for the holidays by the middle of next week. The House will return January 5 for 28 weeks of the second session of the 114<sup>th</sup> Congress, truncated by the presidential election, and the Senate will return January 11 for 31 weeks.

The upper chamber approved measures (S. J. Res. 23 and S. J. Res. 24) mid-November disapproving the Environmental Protection Agency's power plant rules, both of which have companion Congressional Review Act resolutions in the House (H. J. Res. 71, H. J. Res. 72), and White House has already [threatened to veto](#) the measures. When it comes to it, Congress will not have the votes to override the veto. The House addressed energy issues, including the North American Energy Security and Infrastructure Act (H.R. 8), portions of which were adopted as an amendment to the Highway Bill, and the power plan opposition efforts on the floor the week of November 30. After working through 81 [amendments](#), the House approved, 249-174, December 3 the first broad revision of energy policy in eight years, but the bill is unlikely to advance because congressional Democrats and the White House oppose the measure, and the Senate will return to its own more bipartisan energy language in 2016. The House also approved S. J. Res. 23 and S. J. Res. 24 December 1, and the president is expected to veto the measures.

Congress passed December 3 a five-year, \$305 billion Highway Bill (H.R. 22) that includes several energy

measures such as streamlining the environmental reviews and permitting of certain projects; drawing down the Strategic Petroleum Reserve; reauthorizing the Export-Import Bank and attempting to reverse coal-fired power plant financing limitations; reconsidering crude-by-rail rule brake requirements; expanding the use of certain water infrastructure loans; authorizing hazardous materials transportation programs; and other issues. President Obama's signature on the surface transportation bill ends a string of 36 short-term extensions and makes it the longest-term bill that Congress has passed in almost 20 years.

The 21<sup>st</sup> Conference of the Parties to the United Nations Framework Convention on Climate Change began in Paris November 30 and runs through December 11. President Obama and about 120 other heads of state and dozens of other world leaders travelled to Paris for the beginning of the two-week talks, which includes delegates from 197 nations. The summit is expected to draw 60,000 people, including some 10,000 government representatives such as delegations from the U.S. Senate and House as well as several Obama Administration officials, 7,000 observers each week, and 3,000 journalists, to the Le Bourget conference center in a northeast Paris suburb.

Negotiations have already included several rounds of [draft text](#), marking forward movement on the temperature goal, including a long-term goal; emissions reduction targets; long-term renewable energy and decarbonization goals; aspirational targets; loss and damage; climate financing; whether nations' voluntary emissions pledges should be strengthened over time without reopening the entire conference; climate risk insurance; transparency; and other issues.

More than 180 nations have now offered Intended Nationally Determined Contributions to reduce emissions or otherwise address climate change, and observers are increasingly optimistic that an international climate deal will come out of the summit at the end of the week, though the details of the agreement, including which parts will be voluntary or binding, remain in flux over the next few days.

## CONGRESS

### Solar Letter

Senate Energy and Natural Resources Committee Chair Lisa Murkowski (R-AK) led eight of her Republican colleagues in sending a letter to the Treasury Department November 13 asking for an update on the 2012 investigation of SolarCity and other solar installers. The Inspector General for Tax Administration missed a self-imposed deadline to release its results of an inspection of the 1603 program and the solar investment tax credit this past June.

### GCF Opposition

Representative Morgan Griffith (R-VA) led 110 of his House colleagues in sending a [letter](#) November 23 urging chamber appropriators to not fund a \$3 billion pledge from President Obama to the Green Climate Fund.

### FERC on Net Metering

Testifying before a House Energy and Commerce Subcommittee on Energy and Power hearing December 1, Federal Energy Regulatory Commission Chair Norman Bay [said](#) that he does not envision the commission becoming involved in disputes between rooftop solar advocates and traditional utilities over net metering. The hearing also considered the Environmental Protection Agency's Clean Power Plan, grid security, and natural gas pipeline permitting.

### Coal Program Overhaul Sought

Senators Ed Markey (D-MA), Richard Blumenthal (D-CT), and Sheldon Whitehouse (D-RI) sent a letter December 1 to President Obama urging him to overhaul the federal coal program, noting that it has the potential to undermine the administration's climate efforts. The group encouraged the president to direct the Interior Department to increase coal royalty rates to account for the social cost of carbon, prohibit the export of coal from public lands to other countries, and cease new coal leasing until these changes are in place. The senators introduced related legislation the same day.

### CRA EPA Measures

The House approved December 2 two resolutions to block the Environmental Protection Agency from regulating CO2 emissions from new and modified (S.J. Res. 23) and existing (S.J. Res. 24) power plants. The Senate approved the measures in November, but the votes are largely symbolic because the chambers will not have the votes to override certain presidential vetoes.

### Legislation Introduced

Senator Robert Menendez (D-NJ) introduced legislation (S. 2335) December 1 to amend the Federal Water Pollution Control Act related to beach monitoring.

Senators Ed Markey (D-MA), Richard Blumenthal (D-CT), and Sheldon Whitehouse (D-RI) introduced legislation December 1 (S. 2339) requiring an overhaul of the federal coal program.

Representative Tom Rice (R-SC) introduced legislation (H.R. 4149) December 1 to amend the Federal Water Pollution Control Act with respect to citizen suits and the specification of disposal sites.

Representative Michael Simpson (R-ID) introduced legislation (H.R. 4151) December 1 to amend chapter 2003 of title 54, United States Code, to fund the Land and Waster Conservation Fund and provide for the use of such funds.

Representative Zoe Lofgren (D-CA) introduced legislation (H.R. 4162) December 2 to promote the domestic development and deployment of clean energy technologies required for the 21<sup>st</sup> century.

Representative Keith Rothfus (R-PA) introduced legislation (H.R. 4169) December 3 to prohibit any power plant CO2 regulations from taking effect until other major emitters undertake similar actions on climate change.

### **Upcoming Hearings**

The Senate Commerce Subcommittee on Space, Science, and Competitiveness will hold a hearing December 8 to consider promoting an open inquiry into the debate over the magnitude of human's impact on the Earth's climate.

The House Science Subcommittee on Research and Technology will hold a hearing December 8 to consider the future of biotechnology and solutions for energy, agriculture, and manufacturing.

The House Oversight and Government Reform's Interior Subcommittee will hold a hearing December 8 to examine the Stream Protection Rule.

The Senate Energy and Natural Resources Committee will hold a hearing December 10 to consider terrorism and the global oil markets.

## **ADMINISTRATION**

### **Energy Tax Breaks**

The Congressional Budget Office released a report November 18 finding that federal tax breaks account for three times the amount of any other federal energy spending.

### **Long-Term Climate Planning**

The President's Council of Advisors on Science and Technology submitted a letter November 25 finding that businesses as a general rule are not making long-term climate adaptation plans and that they point to a lack of readily available and usable federal tools as one reason. Businesses have said that they would like to particulate more when the government develops additional climate planning and mitigation tools.

### **Business Climate Pledge**

The White House announced November 30 that 73 more businesses had [joined](#) the American Business Act on Climate Pledge, bringing the total to 154 companies with \$7 trillion in market capitalization and employing almost 11 million people across all 50 states.

## **DEPARTMENT OF ENERGY**

### **Vending Machine Efficiency**

The beverage and vending machine industries said in comments November 23 that a Department of Energy proposed rule for stronger energy efficiency standards for beverage vending machines is neither technologically feasible nor economically justified. The agency contends that its August proposed standards would reduce energy consumption by 25-65 percent and plans to issue a final rule by 2016.

## **ENVIRONMENTAL PROTECTION AGENCY**

### **Wood-Based Fuel Regulation**

The Environmental Protection Agency issued a [comfort letter](#) November 12 advising that wood-based material may be regulated as a fuel under Clean Air Act Section 112 rather than a solid waste under Section 129 when burned.

### **RFS Finalized**

The Environmental Protection Agency issued November 30 the [final](#) 2014-2016 renewable volume obligations under the renewable fuel standard, significantly increasing the requirement for total renewable fuels in the fuel supply over its May proposal; new blending requirements go slightly over the ten percent level. The 2016 total is 14.5 billion gallons of conventional ethanol and 3.61 billion gallons of advanced biofuels, lower than the 22.5 billion

gallon combined statutory level

### **CPP Support**

Former Environmental Protection Agency Administrators William Ruckelshaus and William Reilly, who served Republican presidents, joined litigation December 3 supporting the agency's Clean Power Plan in court. The two contend that the plan represents the kind of pollution control programs they endorsed while at the agency during the Nixon, Reagan, and Bush administrations.

### **Fracking Study Review**

The Environmental Protection Agency Science Advisory Board panel [said](#) December 3 that they are moving ahead in advancing their peer review of the virtues and flaws in the agency's report on fracking risks to drinking water. The panel plans to have a draft review ready in mid- to late-January, with a public teleconference scheduled for February 1-2.

## **INTERNATIONAL**

### **Alberta Carbon Tax**

Alberta Premier Rachael Notley said November 22 that the province will institute an economywide carbon tax in 2017, set an annual emissions cap on its oil sands, phase out coal power generation during the next 15 years, and double by 2018 the current price on carbon emissions that some of Canada's largest industrial emitters pay.

### **Emissions Leveling Off**

The European Commission's Joint Research Center and the Dutch Environmental Assessment Agency released a [report](#) November 25 finding that the annual global CO2 emissions increase from the combustion of fossil fuels and from industrial processes almost stalled last year, with emissions about 0.5 percent higher than in 2013. The Trends in Global CO2 Emissions 2015 report concluded that it is still too early to confirm a positive global trend, but that there are signs that CO2 emissions volumes were leveling off, compared to an annual four percent rate of increase from 2000-2011.

### **Financial Risks in Climate Goals**

The Carbon Tracker Initiative released a report November 25 finding that oil, natural gas, and coal producers are risking \$2.2 trillion by investing in projects for which there will be no demand if the world meets the goal of limiting the temperature rise to less than two degrees Celsius. The think tank contends that no new coal mines are needed, that oil demand will peak around 2020, and that gas growth will disappoint industry expectations.

### **EU Renewable Goal**

European Union energy ministers [agreed](#) November 26 that member states will submit by the end of 2019 to the European Commission national energy and climate plans allowing the monitoring of their progress toward the bloc's 2030 greenhouse gas emissions reduction and renewable energy goals. The group agreed last October that the 27 percent goal should be binding as a whole, but not on countries individually.

### **Clean Energy Patents**

The Clean Energy Patent Growth Index [found](#) November 30 that twenty of the world's largest economies and 28 of its top private investors have committed unparalleled amounts of money to basic research and development for new clean energy technologies. Twenty countries responsible for 80 percent of the world's energy research and development agreed to double their annual spending via the Mission Innovation project as patents for clean energy skyrocket and the shift toward a cleaner economy continues. The number of annual U.S. clean energy patents has increased fivefold since 2002 and is on track to break another record this year after eight consecutive increases. Most patents this year have been awarded for solar technologies – 586 in the first half of 2015 alone – followed by fuel cells, electric vehicles, and wind energy, but research breakthroughs require additional research and development funding to get them to market.

### **Chinese Power Reforms**

China's National Development and Reform Commission announced November 30 that Chinese renewable energy producers may benefit from a reform of the nation's electricity distribution business as it prioritizes wind and solar energy generation. The country plans to end the monopoly of state-owned distributors of electricity sales by allowing end users to negotiate prices directly with generators, with distributors operating networks and carrying electricity for a government-established fee. The country also plans to direct companies to replace coal-fired power plant generation with renewable energy.

### **Pacific Island Migration**

The United Nations University released the results of a survey December 2 finding that people from Pacific island nations are beginning to move because of climate impacts, concluding that one in ten people in three Pacific

nations has migrated in the past decade as rising sea levels, soil erosion, crop destruction, and groundwater problems have made it difficult to inhabit their homes, with 3.2 percent leaving for other countries and 7.5 percent moving internally.

### **Green Bond Portfolio Expansion**

The European Investment Bank announced December 2 that it plans to expand its green bond portfolio as it responds to a growing appetite for climate protecting investments. The bank began selling green bonds in 2007 and is now the leading issuer among development banks, with \$10.6 billion of the debt outstanding in eleven currencies.

### **City, Corporate GHG Reductions**

Yale University released an [analysis](#) December 4 finding that cities and regions around the world have pledged to reduce greenhouse gas emissions by a combined total 2.7 billion MT, and corporations have committed to reducing an additional 800 MMT, a combined number that exceeds India's annual emissions.

### **Construction GHG Reductions**

Eighteen countries and more than 60 cities and public and private organizations [announced](#) December 4 a Global Alliance for Buildings and Construction to Combat Climate Change to hasten and scale up the potential to reduce emissions, particularly via energy demand reduction. The building and construction sector could avoid about 3.2 GT CO2 emissions by 2050 by making existing policies and technologies more commonly available. Transforming the sector would require an additional \$220 billion investment by 2020, about 50 percent more than worldwide energy efficient building investment in 2014, but that number accounts for less than four percent of the \$8.5 trillion annual global investment in construction activity, and returns could be as high as 124 percent if investments are made now.

## **STATES**

### **Houston Solar on ITC**

Houston-based solar installer Sunnova Energy Corporation sent a letter to tax negotiations in the House and Senate November 19 saying that Congress should allow a 30 percent investment tax credit for residential solar projects to expire as planned at the end of 2016. The company argues that the industry is robust and does not need the credit in the short or long term. Much of the industry opposes the statement.

### **CA Alternative Energy Tax Capped**

The California Alternative Energy and Advanced Transportation Financing Authority suspended November 27 new applications under its sales and use tax exclusion program because of significant oversubscription. The program provides an incentive for businesses working on alternative energy sources and advanced transportation projects.

### **NYC EVs**

New York City Mayor Bill de Blasio announced December 1 that the city will employ the largest municipal fleet of electric vehicles in the country as well as the necessary charging station infrastructure. About 2,000 city-owned sedans used by the Transportation Department, the Parks and Recreation Department, and others, will be replaced with electric vehicles over the next decade. The city owns about 11,000 vehicles, about half which are used primarily for emergency purposes.

### **NY CES**

New York Governor Andrew Cuomo (D) [issued](#) December 2 a Clean Energy Standard to require the state to achieve 50 percent of its power from renewable sources by 2030. The standard will also provide support for upstate nuclear power plants whose operations are under threat because of low natural gas prices. Nuclear sources will not count toward the requirement.

### **NYC Solar Permits**

New York City's Department of Buildings announced December 3 that most small scale solar panel installation projects will soon be eligible for professional certification. The new measure, to begin January 1, will enable registered architects and professional engineers to certify projects' compliance with construction and zoning regulations, simplifying the permitting process.

### **RGGI Allowances Record Price**

The Regional Greenhouse Gas Initiative [announced](#) December 4 that carbon allowances sold in the latest auction, the initiative's 30<sup>th</sup>, hit a record \$7.50 price, up 24 percent from the latest auction, and raised \$115 million for the nine member states. 15 million allowances were sold at the auction, and the next is scheduled for March 9.

### **CO RES Challenge Declined**

The Supreme Court [declined](#) December 7 to challenge Colorado's renewable energy standard. Twenty-nine states

and the District of Columbia have binding standards, with another eight including voluntary renewable energy goals. The U.S. Court of Appeals for the Tenth Circuit sided in July with Colorado in a suit brought by the Energy and Environment Legal Institute.

## MISCELLANEOUS

### Coal Train Emissions

University of Washington researchers published [findings](#) in *Atmospheric Pollution Research* November 27 concluding that uncovered coal trains emit twice as much particulate matter as regular diesel powered freight trains.

### Gates Launches Clean Energy Funding

Bill Gates launched November 29 the [Breakthrough Energy Initiative](#), a group of 28 of the world's wealthiest investors pledging to fund clean energy technology research and development. The initiative will address the increasing need for affordable clean energy, particularly in the developing world, noting the need to produce 50 percent more energy by 2050 than today.

### Banks Reduce Coal Support

Wells Fargo and Morgan Stanley announced November 30 that they would cut their support for the coal industry in order to reduce emissions and address climate change. Wells Fargo, the fourth largest U.S. bank by assets, would reduce its lending to coal-mining companies, while Morgan Stanley, the sixth-largest, would reduce its exposure to coal mining across the world and apply added scrutiny to coal-fired power plant financing.

### Wind for Microsoft Data Center

General Electric's energy financing unit and MetLife Inc. agreed December 1 to invest in an Illinois wind farm that would produce electricity to offset the energy used by Microsoft Corporation's Chicago data center. Microsoft agreed to purchase the output from a 175 MW Pilot Hill project under a 20-year contract in its largest wind contract to date.

### Toyota Hydrogen Vehicle

Toyota announced December 1 that it will supply temporary hydrogen stations to California dealerships selling the Mirai fuel-cell sedan as some buyers delay taking delivery of their vehicles until the state establishes better refueling infrastructure.

### Google RE Purchases

Google announced December 3 that it would expand its clean energy portfolio with deals for 781 MW of solar and wind power in Chile, Sweden, and the United States. The company is the world's largest corporate buyer of renewable energy.

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