



ML Strategies Update

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Energy & Environment Update

ENERGY AND CLIMATE DEBATE

Congress is in recess this week for the Columbus Day holiday, but will return next week with full schedules in both chambers.

The House will focus heavily on the leadership race to replace retiring Speaker of the House John Boehner (R-OH) when it returns next week. With Representative Kevin McCarthy's (R-CA) sudden decision last week to drop out of the speaker's race, House leadership and legislation as a whole are in limbo, with the consequences ranging from highway reauthorization expiring October 29; to a threat to the debt limit, which must be addressed by November 5; to Medicare premium increases; to federal government spending, with the current continuing resolution scheduled to expire December 11; to the Positive Train Control reprieve deadline expiring December 31; to a need to renew the Export-Import Bank, whose authorization expired at the end of June.

The Senate will return next week to address the Frank R. Lautenberg Chemical Safety for the 21st Century Act (S. 697), attempting to reform the Toxic Substances Reform Act for the first time in nearly four decades, and senators are working this week to resolve the issue of the Land and Water Conservation Fund, which held up its consideration in the upper chamber last week, despite the filibuster proof 60 vote support for the measure. When the Senate does pass its TSCA legislation, a version is likely to make its way quickly to President Obama's desk since the House overwhelmingly passed a related measure in April.

Negotiations continue on a best path forward for developing a full fiscal year 2016 budget. President Obama signed the nearly clean 10-week continuing resolution (H.R. 719) September 30, but indicated at the time that he did not plan to sign a second continuing resolution, instead encouraging lawmakers to finalize a complete fiscal year 2016 budget that will allow federal agencies to engage in long-term planning. The current CR expires December 11, and congressional leaders and their staffs are in the midst of talks to come to an agreement.

Until the past couple of weeks, it has looked this fall like an end of the year package might be just out of reach, but with the debt limit and other issues such as spending authority for the Highway Trust Fund needing attention soon, there may be another opportunity to bring together a broad end of the year package. Treasury Secretary Jack Lew sent a letter to Congress October 1 indicating that the country will need to raise the debt ceiling on or around November 5, a few days later than estimated in July. Energy issues most likely to obtain Congressional attention this year include TSCA reform and a tax extenders package, with the production tax credit and a tweak of the investment tax credit receiving top billing in the energy category. It remains to be seen what, if any, larger tax effort can be accomplished, as House Ways and Means Committee Chair Paul Ryan (R-WI) hopes to make some of the tax extenders permanent and let others remain expired indefinitely. Should Congress take that route, Senate Democrats would look for trade offs in the form of making some renewable energy tax credits permanent or at least

providing them with long phaseouts or otherwise tweaking them. The Senate Finance Committee approved this summer a two-year package (S. 1946) of all the tax provisions, extending one year retroactively as needed. Senate Finance Committee Chair Orrin Hatch (R-UT) said earlier this fall that it is up to Senate Majority Leader Mitch McConnell (R-KY) to fit tax extenders into the packed legislative schedule, and it is not likely to be on the calendar until closer to the end of the year, despite broad business **community** outreach encouraging renewal as soon as possible. The House Ways and Means Committee approved in September a package of bills that would permanently renew several of the tax extenders, including bonus depreciation, teacher deduction, restaurant depreciation rules, Subpart F exemption, and look-through treatment of Controlled Foreign Corporations. Senator Ed Markey (D-MA) reiterated last week that Congress should make permanent renewable energy tax credits.

In the meantime, there may be another possibility for positive forward movement on the PTC and other clean energy tax issues, should Congress decide to move forward with lifting the crude oil export ban, as continues to remain a possibility. See the Congress section below for more details.

The Obama Administration will continue its climate theme through the end of the year as it continues its march toward international climate negotiations in Paris this November and December and seeks an ambitious global climate agreement. There will be a series of events held in Washington the rest of the month and next to call for the United States to demonstrate climate leadership, including a White House HFC event October 15, a White House corporate voluntary climate pledge event October 19, a State Department Secretary's Climate and Clean Energy Investment Forum October 20-21, and a White House off-grid energy access and energy efficiency event October 22.

United Nations Secretary General Ban Ki-moon brought together 40 heads of state late last month to discuss climate change on the sidelines of the United Nations General Assembly in New York. The meeting offered a rare opportunity for world leaders to get together to take stock of progress and encourage more haste toward a global climate agreement in Paris at the end of the year. Pope Francis addressed the UN General Assembly in New York September 25, including making the moral argument for combatting climate change. A broader group of representatives from about 190 countries met September 25-27 at UN headquarters in New York to formally adopt a new sustainable development agenda that covers social, economic, and environmental issues, and businesses met September 24 to discuss how they can support those global goals. Climate negotiators from the 16 top-emitting nations as well as the European Union met September 29-30 in New York for the Major Economies Forum on Energy and Climate. Additionally, G20 energy ministers met in Istanbul October 1-2. International finance ministers met October 9-11 in Peru for World Bank and International Monetary Fund meetings, and focusing primarily on climate finance, one of the agreement's biggest sticking points. Additionally, discussions about the progress of the United Nations plan to create a \$100 billion green climate fund were addressed at an International Monetary Fund meeting in Lima October 9. See the International section below for more details. Other meetings continue as nations march toward the Paris climate negotiations, including the next Group of 20 leaders' summit in Turkey November 15-16, though the focus there will more likely be on economic and global security issues than on the Paris climate negotiations. The final Paris preparatory talks run October 19-23 in Bonn, with negotiators hoping to have the text nailed down by then (see the International section, below, for details about the latest draft), and the negotiations themselves will take place November 30-December 11 in Paris.

CONGRESS

Senate on Crude Oil Exports

The Senate Banking Committee approved October 1 the American Crude Oil Export Equality Act (S. 1372) to lift the 40-year-old ban on crude oil exports. The measure, from Senators Heidi Heitkamp (D-ND) and Lisa Murkowski (R-AK), is separate from another bill (S. 1312) that would lift the prohibition that the Senate Energy and Natural Resources Committee approved in July. Senate Democrats, including Senator Martin Heinrich (D-NM), Minority Leader Harry Reid (D-NV), and others said last week that they are in talks with their Republican counterparts to reach an agreement under which wind and solar energy tax incentives receive a long-term extension and the crude oil export ban is lifted. It may be a long shot, and President Obama has previously indicated that he would not support House (H.R. 702) or Senate (S. 1372) crude oil export ban lifting legislation.

Strong Aircraft Emissions Limits Urged

Representative Ted Lieu (D-CA) led 21 of his Democratic colleagues October 7 in sending a letter urging the Environmental Protection Agency to adopt stricter greenhouse gas emissions limits for aircraft than those that the United Nations' International Civil Aviation Organization is currently developing. The agency issued a proposed endangerment finding and an advanced notice of proposed rulemaking in July after determining that aircraft emissions pose risks to human health and the environment, and indicated at the time that it would likely follow the United Nations' standards, though final regulation would not be completed during President Obama's presidential

tenure.

Native Energy Legislation Approved

The House of Representatives passed the Native American Energy Act (H.R. 538) October 7. The measure would make it easier for tribes to lease their land for energy production, from mining to drilling to wind farms. The White House [objected](#) the same day to provisions in the bill that streamline environmental reviews on tribal lands and give tribes the right to approve federal regulations of fracking on their lands.

ARENA Act Wouldn't Deter EPA

The Congressional Budget Office [reported](#) October 7 that Senator Shelley Moore Capito's ARENA Act (S. 1324) would not deter the Environmental Protection Agency from continuing to work on activities related to power plants, including developing guidance and providing technical assistance to states, despite the fact that it would throw out several agency rules and impose requirements on the agency if it attempts to regulate greenhouse gases from new and old power plants.

Trading Not Required Under CPP

Testifying before the House Energy and Commerce Subcommittee on Energy and Power October 7, Environmental Protection Agency Acting Assistant Administrator for Air and Radiation Janet McCabe said that the agency would not require states to pursue carbon trading programs under the Clean Power Plan even though trading forms the basis for the agency's model implementation rule. She said that though trading will not be required, market mechanisms have proven to be the most flexible and cost-effective means of previously reducing air pollution. She also said that the Clean Power Plan and new source performance standards for new power plants, both finalized in August, would be published in the Federal Register in the second half of October.

CRA CPP Challenge

Representative Ed Whitfield (R-KY) and Senator Shelley Moore Capito (R-WV) said October 8 that they are planning to launch Congressional Review Act challenges to the Environmental Protection Agency's Clean Power Plan as soon as it is published in the Federal Register. The effort will be an uphill battle, as Congress would need support from two-thirds of each chamber to overcome President Obama's veto of such a measure.

Senate Energy Spending Bill

As anticipated, Senate Democrats voted October 8 to prevent the upper chamber from addressing a \$35.4 billion energy and water spending bill (H.R. 2028) amidst a larger fight over domestic spending levels. The White House issued a [veto threat](#) for the legislation the same day.

House on Crude Oil Exports

The House voted, 261-159, October 9 to lift the 40-year-old crude oil export ban (H.R. 702), sending the measure to the Senate where it faces an uphill battle. The lower chamber approved the legislation after adopting by voice vote an amendment from Representative Jared Huffman (D-CA) requiring a study on greenhouse gas emissions that result from a repeal of the export ban.

Legislation Introduced

Senator Bob Corker (R-TN) introduced legislation (S. 2152) October 7 to establish a comprehensive United States Government policy to encourage the efforts of countries in sub-Saharan Africa to develop an appropriate mix of power solutions, including renewable energy, for more broadly distributed electricity access in order to support poverty reduction, promote development outcomes, and drive economic growth.

Senators Barbara Boxer (D-CA), Maria Cantwell (D-WA), Dianne Feinstein (D-CA), Jeff Merkley (D-OR), Patty Murray (D-WA), and Ron Wyden (D-OR) introduced legislation (S. 2155) October 7 to amend the Outer Continental Shelf Lands Act to permanently prohibit offshore drilling on the Outer Continental Shelf off the coast of California, Oregon, and Washington.

Senator James Lankford (R-OK) introduced the PTC Elimination Act (S. 2158) October 7 to phase out federal renewable energy tax credits by 2026. The measure would remove the production tax credit from the tax code, making it a permanent sunset of the credit that expired last December, thus making the removal concrete.

Senator Maria Cantwell (D-OR) was joined by a bipartisan group of seven of her colleagues in introducing legislation (S. 2165) October 8 to permanently authorize the Land and Water Conservation Fund.

Senator Jon Tester (R-MT) introduced legislation (S. 2169) with a bipartisan group of six of his colleagues October 8 to extend the Land and Water Conservation Fund.

Representative Matt Cartwright (D-PA) introduced legislation (H.R. 3720) October 8 to encourage water efficiency.

ADMINISTRATION

Reynolds to White House

Environmental Protection Agency Associate Administrator for Public Affairs Thomas Reynolds announced October 6 that he is moving to the White House to help develop President Obama's growing climate and energy policy messages, as the United States and 196 other nations pursue an historic global climate agreement in Paris at the end of the year.

DEPARTMENT OF ENERGY

Technology Ameliorates Climate Threats

Speaking to the SXSW Eco conference in Austin October 5, Assistant Energy Secretary for Energy Efficiency and Renewable Energy David Danielson said that new energy technologies can help to address climate change, including growing numbers of horrific forest fires. He specifically mentioned the emerging sectors of geothermal, hydropower, batteries, clean energy manufacturing, and 3D printing.

\$20 Million for Fuel Cells

The Department of Energy announced October 8 that it will invest more than \$20 million in 10 projects to advance fuel cell and hydrogen technologies and enable early adoption of fuel cell applications such as light duty fuel cell electric vehicles. The agency released a [report](#) the same day showing that the industry continues to grow rapidly, with \$2.2 billion in sales last year.

Climate Change Threatens Energy Infrastructure

The Department of Energy released a [report](#) October 9 showing that climate change is threatening energy infrastructure across the country, and noting specific vulnerabilities in nine different regions across the nation. With the report's release, Energy Secretary Ernest Moniz called for innovative solutions to develop more resilient and efficient energy infrastructure, and said that the agency is investing in resiliency improvement research and encouraging the private sector to protect its assets from climate threats.

DEPARTMENT OF STATE

Hochstein Nominated

President Obama nominated October 8 Amos Hochstein, State Department special envoy and coordinator for international energy affairs in the Bureau of Energy Resources, to serve as assistant secretary for energy resources at the department.

ENVIRONMENTAL PROTECTION AGENCY

HFC Phaseout Hastening

The Natural Resources Defense Council and the Institute for Governance and Sustainable Development filed a [petition](#) with the Environmental Protection Agency October 6 seeking to ban the use of several refrigerants, such as hydrofluorocarbons and other alternatives to ozone depleting substances with high global warming potentials in favor of less damaging options. The agency has already taken steps under the Significant New Alternatives Policy Program to phase out some HFCs, but the groups charge that HFC emissions, which currently account for 1.5 percent of domestic greenhouse gas emissions, will triple by 2030 unless the agency undertakes additional action.

FEDERAL ENERGY REGULATORY COMMISSION

Moeller to Depart

Federal Energy Regulatory Commission Commissioner Philip Moeller announced October 6 that he would leave the commission at the end of the month to pursue other opportunities in the energy field. His departure leaves the agency with three Democratic and one Republican commissioners, and the White House must nominate a commissioner for the Senate to confirm. Commissioner Moeller initially announced in May that he would leave the commission after his second five-year term ended June 30, but that he would remain until another commissioner was confirmed by the Senate; the Administration has yet to nominate a replacement.

INTERNATIONAL

Paris Draft Text

The United Nations released October 5 a significantly abbreviated [draft negotiating text](#) of what may become the world's first global climate agreement at the end of the year negotiations in Paris. The 20-page document, produced

by Ad Hoc Working Group on the Durban Platform for Enhanced Action co-chairmen Ahmed Djoghlaif and Daniel Reifsnnyder, includes a commitment to try to retain the rise in global temperatures to no more than 2 degrees Celsius. It includes a goal to establish a peak global greenhouse gas emissions level and a specific peak date and calls for reviews every five years after the agreement enters into force in 2020. The text will serve as the basis for negotiations at the October 19-23 preparatory talks in Bonn and the November 30-December 11 Paris summit.

Green Bonds Linked to Projects

The European Investment Bank Director General of Finance Bertrand de Mazieres said October 5 that the bank is the first issuer to link its individual green bonds to the projects they finance, as it works to scale up climate financing projects.

OECD Climate Finance Progress

Organization for Economic Cooperation and Development Climate Change Division head Simon Buckle said October 6 that the organization, in collaboration with the Climate Policy Initiative, prepared a [report](#) to provide a current aggregate estimate of progress toward developed nations' commitments to spending at least \$100 billion a year by 2020 on climate change adaptation and mitigation efforts. Developed nations raised about \$62 billion in climate finance in 2014. The report served as input during the October 9 meeting in Lima of Group of 20 country finance ministers to consider possible finance packages ahead of the end of the year global climate negotiations in Paris. The previous day, finance ministers from the Group of the Vulnerable 20, V-20, countries held an inaugural meeting in Lima to discuss the economic and financial interests of 20 countries facing acute climate related risks. The group, which together represents about a tenth of the world's population but is responsible for less than 2 percent of the world's greenhouse gas emissions, called jointly for a significant increase in climate financing.

New IPCC Chairman

The United Nations Intergovernmental Panel on Climate Change elected South Korean economist and outgoing vice chairman of the panel Hoesung Lee as its new chairman October 6. He replaces Ismail El Gizouli, who has held the role of interim chairman since longtime chief Rajendra Pachauri resigned in February after 13 years at the organization's helm. The Korea University climate change economics professor favors setting a price on carbon as a way to use markets to reduce global emissions. He said at the 42nd session of the Intergovernmental Panel on Climate Change in Croatia the following day that global greenhouse gas emissions must peak no later than 2030 and then fall by an average of 3 percent a year after that until the end of the century to reach zero net emissions by 2100. The session, which took place October 5-8, also closed with three new co-chairs and a handful of new ideas on how to be more useful to policymakers.

Coal-Climate Fund Relationship

World Coal Association Chairman Mick Buffier said October 8 that the United Nations Green Climate Fund should help finance making coal plants more efficient, as more than 2,000 new coal fired power plants are planned for or are being built in Asia and Africa. New technology can reduce greenhouse gas emissions by about a third per unit of power, though it adds about 50 percent to the \$315 million cost of a 500 MW plant in China.

IETA on Draft Proposal

The International Emissions Trading Association said October 9 that the United Nations draft climate proposal could potentially reduce clean technology investments to developing countries because it limits the role of global carbon markets. The current preliminary draft retains language from previous pacts that only allows countries to buy carbon credits from one another to meet climate pledges if it is supplemental to domestic action.

STATES

RGGI Cap

The Acadia Center released a [report](#) October 6 finding that the Regional Greenhouse Gas Initiative will need to adjust its carbon emissions cap after 2020 to meet the Environmental Protection Agency's Clean Power Plan requirements for 2030 and the economywide goals set by eight of the nine members states by 2050.

CA RE

California Governor Jerry Brown (D) signed October 7 legislation (S.B. 350) to require the state's utilities to buy half of their power from renewable sources and to require buildings to become 50 percent more energy efficient. The Clean Energy and Pollution Reduction Act initially included a measure calling for a 50 percent reduction in oil consumption, but the language was pulled under pressure from moderate Senate Democrats.

SUSTAINABILITY

Sustainable Value Chains Grow

Levi Strauss & Company senior director for global policy and advocacy Anna Walker said at the SXSW Eco conference in Austin October 6 that industry leaders are increasingly emphasizing the value of collaboration in developing sustainable value chains as consumers look to buy green products. She also noted that consumer

recognition for that sustainable behavior remains a challenge. General Motors made similar comments at a forum the previous day, noting that collaborative efforts to address complex global sustainability issues are necessary.

Citigroup Reduces Coal Financing

Citigroup Inc. posted guidelines October 5 announcing that it will cut back on financing for coal mining projects. The third-largest U.S. bank said that its credit exposure to coal mining had declined materially since 2011 and that the trend would continue into the future, as the policy applies to companies that use mountaintop removal methods and coal-focused subsidiaries of diversified mining companies. Bank of America Corp. and Credit Agricole SA have made similar announcements, citing climate concerns as well.

MISCELLANEOUS

RE Capacity Factors, Expenses

Bloomberg New Energy Finance released an analysis October 6 finding that wind power is now the least expensive electricity to produce in Germany and the United Kingdom, even without government subsidies. It is the first time that threshold has been crossed by a Group of Seven economy. In the United States, widespread renewable energy adoption is effectively lowering the capacity factor for fossil fuels because once a solar or wind project is built, the marginal cost of its electricity is near zero, or free, while fossil fuel plants require more fuel for each new watt produced, and power companies are choosing the free electricity, perpetuating a self-reinforcing cycle.

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