



ML Strategies Update

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Energy & Environment Update

ENERGY AND CLIMATE DEBATE

With Congress avoiding a government shutdown by passing a continuing resolution last week, both the House and Senate are in session this week with full schedules, including several energy and environment hearings.

The House will focus heavily on the leadership race to replace retiring Speaker of the House John Boehner (R-OH), and will address child support (H.R. 2091), homebuyers assistance (H.R. 3192), the Native American Energy Act (H.R. 538), and crude oil export legislation (H.R. 702), and potentially reauthorizing the Export-Import Bank. The Senate will consider the conference report on the fiscal year 2016 National Defense Authorization Act (H.R. 1735), which the House approved last week and for which the White House has issued a veto threat, nominations, and potentially the Frank R. Lautenberg Chemical Safety for the 21st Century Act (S. 697) and renewing highway and mass transit programs and paying for infrastructure.

Just hours before a government shutdown would have occurred, the House adopted a clean 10-week continuing resolution (H.R. 719) September 30, buying time for Congress to consider and approve funding bills for the remainder of fiscal year 2016. The Senate had approved the measure earlier in the day. President Obama signed the bill into law before the midnight expiration of fiscal year 2015 funding levels. The continuing resolution adds \$700 million for combatting western wildfires and extends the e-verify program and the Internet Tax Freedom Act. President Obama indicated late last week that he would not sign additional continuing resolutions after last week's short-term agreement expires December 11. He urged Congress to develop a full fiscal year 2016 budget that will allow federal agencies to engage in long-term planning, and congressional leaders have already begun staff talks to find an agreement.

The night before the scheduled September 17 mark-up of broad House energy legislation, House Energy and Commerce Committee Chair Fred Upton (R-MI) pulled the measure (H.R. 8) from the committee's agenda, saying that the committee needed more time to discuss the legislation before marking it up. Representative Upton, who will be required to step down from his chairmanship soon due to term limits, was seeking ways to make the measure more broadly appealing on a bipartisan level. Then last week, Representative Upton offered a substitute amendment of the four-part energy strategy that includes many of the Republican energy pieces, effectively halting progress on the measure at least through the end of the year. The new version of the legislation contains 113 more pages, of 208, that Democrats could not support. For more information on the legislation and its status, see the Congress section, below. The Senate will return to its own broad bipartisan energy legislation in 2016. The Senate Energy and Natural Resources Committee approved the measure this summer, sending the bill to the floor for wider consideration that may include handfuls of amendments. If broad bipartisan energy legislation does not advance in the near future, the upper chamber may also turn to the energy efficiency package from Senators Rob Portman (R-OH) and Jeanne Shaheen (D-NH).

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 in late July 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 recently that it is up to Senate Majority Leader McConnell to fit tax extenders into the packed fall 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. When Congress does turn to broader tax reform, most likely in 2017, the American Energy Innovation Council released a [staff paper](#) last week examining the impacts of tax reform proposals on energy prices and finding that comprehensive reform proposals designed to reduce individual and corporate tax rates while removing or limiting many current deductions and credits could significantly raise the levelized cost of energy for wind, solar, and gas-fired electricity generation. 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.

The Obama Administration will continue its climate theme through the end of the year as it prepares for the 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 an HFC event October 15, and a corporate voluntary climate commitment event October 19, as well as a State Department sustainability event in late October.

United Nations Secretary General Ban Ki-moon brought together 40 heads of state September 27 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. 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. International finance ministers will meet October 9-11 in Peru for World Bank and International Monetary Fund meetings, and could discuss climate finance, one of the agreement's biggest sticking points, then. Discussions about the progress of the United Nations plan to create a \$100 billion green climate fund will be addressed at an International Monetary Fund meeting in Lima October 9. There is also a growing consensus regarding the need for an ambitious long-term goal, which may translate into a 2050 goal, but may also include an end of the century target. Climate negotiators from the 16 top-emitting nations as well as the European Union will also meet 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. The final Paris preparatory talks run October 19-23 in Bonn, with negotiators hoping to have the text nailed down by then, and the negotiations themselves will take place November 30-December 11 in Paris.

CONGRESS

House on Crude Oil Exports

The House Energy and Commerce Subcommittee on Energy and Power voted September 10 to lift the 40-year-old crude oil export ban (H.R. 702). The House Energy and Commerce Committee approved the legislation September 17. The House Rules Committee took up the measure last week. Majority Leader Kevin McCarthy (R-CA) delayed the full House vote, so the lower chamber is expected to take up and pass the measure this week.

House Energy Legislation

After a marathon markup sessions during which many Democratic amendments were defeated, the House Energy

and Commerce Committee passed, 32-20, the North American Energy Security and Infrastructure Act of 2015 ([H.R. 8](#)) September 30. In the [substitute amendment](#) Committee Chair Fred Upton (R-MI) introduced the day before the markup, the four titles seek to modernize and protect infrastructure, focus on energy and manufacturing workforce development, establish energy security and diplomacy, and promote energy efficiency and accountability. Measures including language to expedite the Energy Department's consideration of liquefied natural gas export licenses, repeal a 2007 law requiring federal buildings to phase out the use of fossil fuels, and suspend a Department of Energy furnace efficiency standard, were added to the substitute amendment, turning the Subcommittee on Energy and Power's bipartisan piece into a partisan fight.

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. The Banking Committee has jurisdiction over export controls and foreign trade promotion. Senator Pat Toomey (R-PA) offered an amendment that the committee adopted to prevent any lifting of sanctions against Iran unless it makes good on payments to Americans as ordered by the U.S. court system, and committee members do not expect the measure to advance to the Senate floor.

Legislation Introduced

Senator Maria Cantwell (D-WA) was joined by 29 of her colleagues in introducing the [American Energy Innovation Act of 2015](#) (S. 2089) September 28. The measure includes [six titles](#) to address the need for new jobs, updated infrastructure, and technological innovation. The measure gives consumers better access to their electricity data; creates a federal Energy Efficiency Resource Standard; supports smart building research and development; invests in energy storage; integrates clean energy onto the grid; improves grid security and helps manage electricity demand; implements recommendations from the Department of Energy's Quadrennial Energy Review to improve resilience of the domestic electric grid, natural gas distribution, and the Strategic Petroleum Reserve; reduces greenhouse gas emissions equivalent to all passenger vehicles and a third of domestic homes and secures CO2 reduction targets from other nations; triples funding for basic energy science and technology research to maintain global leadership and invest in next generation clean technologies for international export; doubles cybersecurity research investments and develops and designates the Department of Energy as the sector-specific lead for energy; prepares a new generation of skilled workers for the 21st century workforce through job training and a model energy workforce curriculum; permanently reauthorizes and fully funds the Land and Water Conservation Fund; offers technical assistance to small and medium manufacturers to implement smart manufacturing technologies and expand the Advanced Technology Vehicle Manufacturing Program to include trucks; and invests in clean energy technologies and repeals fossil fuel subsidies. Several of the bill's original cosponsors [unveiled](#) the broad Democratic vision for a clean energy future September 22.

Senators Richard Burr (R-NC) and Thom Tillis (R-NC) introduced legislation (S. 2083) September 28 to extend the deadline for commencement of construction of a hydroelectric project.

Representative Ted Poe (R-TX) introduced legislation (H.R. 3626) September 28 to prohibit funding for the Environmental Protection Agency to be used to implement or enforce a cap and trade program for greenhouse gases.

Representative Lloyd Doggett (D-TX) introduced legislation (H.R. 3627) September 28 to amend the Trade Act of 1974 to exclude from eligibility for the generalized system of preferences any country that fails to effectively enforce its environmental laws or meet its international environmental obligations.

Representative Jared Huffman (D-CA) introduced legislation (H.R. 3632) September 28 to prohibit drilling in the Arctic Ocean.

Senator John Cornyn (R-TX) introduced legislation (S. 2117) October 1 to prevent certain discriminatory taxation of natural gas pipeline property.

Upcoming Hearings

The Senate Energy and Natural Resources Committee will hold a hearing October 6 to consider issues related to the energy security and modernization of the Strategic Petroleum Reserve. Energy Secretary Ernest Moniz will testify.

The Senate Environment and Public Works Committee will hold an oversight hearing October 7 of the Nuclear Regulatory Commission.

The House Energy and Commerce Subcommittee on Energy and Power will hold a hearing October 7 to discuss the Clean Power Plan. Environmental Protection Agency Acting Assistant Administrator for the Office of Air and

Radiation Janet McCabe will testify.

The House Science Subcommittees on Environment and Oversight will hold a joint oversight hearing October 7 to consider the Environmental Protection Agency's ozone rule.

The Senate Energy and Natural Resources Committee will hold a hearing October 8 to consider a series of bills that will impact western water and power supplies.

The House Energy and Commerce Subcommittee on Oversight and Investigations will hold a hearing October 8 entitled "Volkswagen's Emissions Cheating Allegations: Initial Questions."

ADMINISTRATION

Offshore Wind

The White House hosted a Summit on Offshore Wind with federal, state, and industry group representatives September 28 during which it [announced](#) the creation of an interagency working group and that the Department of Energy would fund a \$593,000 multi-state project with New York, Maine, Massachusetts, and Rhode Island to develop a regional strategy for offshore wind projects. The administration estimates that offshore wind will provide 22 GW of clean energy by 2030. The Departments of Energy and Interior are working to update a 2011 National Offshore Wind Strategy to identify ways to reduce the cost and deployment of offshore wind projects.

Indonesian Climate Talks

The White House announced September 21 that President Obama will host Indonesian President Joko Widodo at the White House in late October to discuss a range of bilateral issues, including climate change, energy, defense, trade and investment, and maritime cooperation.

DEPARTMENT OF ENERGY

AK Energy Efficiency

During the Association of Village Council Presidents Annual Convention in Alaska September 30, the Department of Energy announced a Request for Information to help shape the design of a [Remote Alaskan Communities Energy Efficiency Competition](#). The \$4 million initiative is intended to significantly accelerate efforts by remote Alaskan and potentially other Arctic communities to adopt sustainable energy strategies. Responses are due October 30.

Kotek Nomination

The White House announced October 2 that President Obama plans to nominate John Kotek to lead the Department of Energy's nuclear energy office. Mr. Kotek has served as principal deputy assistant secretary for nuclear energy since January and was expected to assume the office's top position after Pete Lyons retired this summer. He also served as a principal and managing partner in the Idaho office for Gallatin Public Affairs and has been on the board of the American Nuclear Society as well as held several positions with the agency's nuclear energy, science, and technology office.

DEPARTMENT OF TREASURY

Energy Term Input

The Internal Revenue Service requested comments October 2 on how to define certain types of energy producing property as it crafts new rules for energy tax credits for small taxpayers. Specifically, the Treasury Department is working on definitions for the types of equipment that farms, businesses, and schools install to generate onsite power from solar, geothermal, and wind sources that qualify for the credit under tax code Section 48 as well as whether energy storage devices can qualify for the credit and whether dual-use property can be eligible for a percentage of the credit. Comments are due February 16.

ENVIRONMENTAL PROTECTION AGENCY

Ozone Rule Finalized

The Environmental Protection Agency [issued](#) October 1 its final national ambient air quality [standard](#) for ground-level ozone, tightening the rule to 70 parts per billion, down from the 75 ppb President George Bush set in 2008. The final rule was received with some dissatisfaction from Members of Congress and industry groups on both sides, with Senate Environment and Public Works Committee Chair James [Inhofe](#) (R-OK) and some industry opponents cautioning that revised standards would damage the U.S. economy, and Committee Ranking Member Barbara [Boxer](#) (D-CA) and environmental and public health organizations pushing for more stringent standards of

65 ppb or below. The agency projects that the new standards will yield public health benefits of as much as \$5.9 billion annually beginning in 2025, and could avoid up to 660 premature deaths and 230,000 youth asthma attacks the same year, even without factoring in California, which will receive a longer timeline to attain the standards due to significant state air quality issues. Agency modeling predicts that 14 counties outside of California, around New York City, Pittsburgh, and Houston, are expected to be in nonattainment in 2025. In addition to addressing the primary, health-based ozone standard, the agency's final rule also revised the secondary, welfare-based ozone standard, intended to provide public welfare protection such as protection against damage to vegetation, to 70 ppb. The Clean Air Act requires the agency to review the standards every five years.

FEDERAL ENERGY REGULATORY COMMISSION

Order 745 on Docket

The Supreme Court begins its 2015 term with just one significant energy related case on the docket thus far: the Federal Energy Regulatory Commission's demand response rule. The U.S. Court of Appeals for the District of Columbia Circuit struck down Order 745 last year, finding that the commission had trespassed into states' jurisdiction and that it could not regulate demand response payments in retail electricity markets. The high court will rule whether or not the commission has jurisdiction, though it may order a rule rewrite.

2016 Open Meetings

The Federal Energy Regulatory Commission announced October 5 the dates for the commission's 2016 open meetings. Meetings will occur the third Thursday of each month, except no meeting will take place in August and September's will take place the fourth Thursday.

INTERNATIONAL

Private Sector on Global Compact

Facebook was joined by 35 other companies from around the world in [announcing](#) support September 26 at the United Nations' annual meeting of private leaders for the UN's new sustainable development agenda, which includes 17 sustainable development goals for 2030 focusing on issues ranging from hunger to water and sanitation to climate change.

Banks Support Global Climate Agreement

Bank of America, Citigroup, Goldman Sachs, JPMorgan Chase, Morgan Stanley, and Wells Fargo, [called](#) September 28 on international negotiators to finalize a strong global climate agreement at the end of the year in Paris. The banks said that policies placing a price on carbon are important for directing the estimated \$90 trillion in low carbon investments required over the next 15 years.

ZEV Alliance

California, Connecticut, Maryland, Massachusetts, the Netherlands, Norway, Oregon, Quebec, Rhode Island, the United Kingdom, and Vermont held a signing event in New York September 29 to announce the founding members of the International ZEV Alliance to advance the use of zero-emissions vehicles around the world. The alliance will set ambitious targets to advance zero-emission vehicle deployment, share data, and collaborate on best practices. The founding members account for more than a third of global vehicle sales. Additionally, the International Council on Clean Transportation released a [report](#) last week outlining the progress in advancing the use of zero-emission vehicles and outlining policies that can accelerate the transition to electric vehicles.

Development Banks on Climate Projects

The board of the European Bank for Reconstruction and Development announced September 30 that it would increase climate project investment to \$20 billion by 2020 as industrial nations begin to determine how they will scale up assistance for projects that address climate change. The European Investment Bank and Asian Development Bank made similar announcements in the past week as well.

India's INDC

India, the fourth most greenhouse gas emitting nation in the world, behind China, the United States, and the European Union, submitted October 1 its [Intended Nationally Determined Contribution](#) to the United Nations Framework Convention on Climate Change, committing to reduce its carbon intensity by a third from 2005 levels by 2030. The country also committed to taking a significant step forward on solar and wind energy by pledging to make renewable sources account for 40 percent of its energy mix by 2030.

Food Companies Support Climate Action

General Mills, Mars, Unilever, Nestlé, Kellogg, Company, Dannon, Stonyfield Farm, New Belgium Brewing, Clif Bar, and Ben and Jerry's released a [joint letter](#) October 1 to world leaders committing to taking action on climate change and urging them to do the same. The letter highlighted the upcoming end of the year climate negotiations in Paris

as an important opportunity to address the issue, and said that climate change is already impacting their businesses.

UN GHG Trading

The International Emissions Trading Association announced October 1 that a failure to make carbon trading a key component of the global climate agreement in Paris at the end of the year is likely to mean the end of the United Nations' 18-year-old greenhouse gas emissions market, the Clean Development Mechanism. The association concluded that an agreement that does not specifically allow countries to transfer emissions credits would probably confine trading to a small subset of countries, reducing the efficiency of climate protection.

INDC Contributions

The United Nations Framework Convention on Climate Change [announced](#) October 2 that 146 countries submitted Intended Nationally Determined Contributions, or domestic pledges to the convention outlining their plans for addressing climate change. The countries that submitted plans account for 87 percent of global greenhouse gas emissions and 75 percent of all member countries to the convention. All developed countries, as well as 104 developing nations submitted plans. The United States, China, India, and the European Union emit about half of the world's carbon emissions. The convention will release a report November 1 analyzing the commitments. October 1 was the informal deadline for countries to submit their plans. Pledges submitted thus far will not, however, keep the global emissions increase below 2 degrees Celsius above pre-industrial levels, the threshold that the United Nations and many scientists argue could help prevent some of the most harmful effects of climate change. Climate Interactive released an [analysis](#) the same day finding that the submitted proposals would result in an increase in global temperatures of 3.5 degrees Celsius, which would likely result in unprecedented natural disasters.

RE Growth

The International Energy Agency released a [report](#) October 2 finding that renewable energy will be the largest source of new power generation capacity around the world over the next five years, installing 700 GW to more than 26 percent of the world's electricity mix in 2020, from 22 percent in 2013. The agency projected that though installations would grow, investment would fall 15 percent from \$270 billion in 2014 to \$230 billion a year by 2020 as the cost of solar and wind power declines dramatically.

STATES

NE Solar Market

Wiser Capital released a [study](#) September 29 finding that New York, Pennsylvania, and Massachusetts are likely to lead the Northeast during the next solar market boom, which could generate \$67.5 billion in investment opportunities. The 2015 Solar Economy Barometer concluded that the Northeast holds about 274,000 commercial buildings that could be fitted with solar panels to generate almost 95,000 MW.

CA SLCP Plan

The California Air Resources Board released a [draft plan](#) September 30 to reduce the concentration of short-lived climate pollutants in the atmosphere. Pollutants such as black carbon, fluorinated gases, and methane are estimated to be responsible for about 40 percent of current net climate forcing, and if they are controlled, it is possible to slow climate change more quickly.

CA Vehicle Emissions

California released a draft [Mobile Source Strategy](#) October 1 to further reduce vehicular emissions in order to meet the Environmental Protection Agency's new ozone rule and achieve the state's own climate goals. The plan outlines a 15-year strategy building on current rules and policies that aim to reduce pollutants, slow climate change, and reduce the state's dependence on petroleum. The California Air Resources Board will hold a public workshop on the draft plan October 16.

NJ Offshore Wind

Senators Cory Booker (D-NJ) and Bob Menendez (D-NJ), and Representative Frank Pallone (D-NJ) sent a letter October 1 to New Jersey Governor Chris Christie (R) urging him to take advantage of an upcoming auction of offshore wind leases off the state's coast.

NYC Building Emissions

New York City Mayor Bill de Blasio unveiled a [plan](#) September 28 to reduce greenhouse gas emissions of privately owned buildings 80 percent by 2050. The plan creates a retrofit accelerator for private landlords to help them install energy efficiency, clean energy, and water conservation retrofits, retrofitting 1,000 buildings by 2025, with a goal of reducing emissions by almost a million metric tons by that time. Mayor de Blasio also announced the expansion of New York's carbon challenge, wherein participants commit to reducing 30 percent of their building's emissions over the next decade. Additionally, he [recommended](#) that the city's pension funds divest almost \$33 million from coal.

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