



ML Strategies Update

David Leiter, DJLeiter@mlstrategies.com

Sarah Litke, SLitke@mlstrategies.com

Jordan Collins, JMCollins@mlstrategies.com

Neal Martin, RNMartin@mlstrategies.com

FOLLOW US ON TWITTER: [@MLStrategies](https://twitter.com/MLStrategies)

ML Strategies, LLC

701 Pennsylvania Avenue, N.W.

Washington, DC 20004 USA

202 434 7300

202 434 7400 fax

www.mlstrategies.com

DECEMBER 15, 2014

Energy & Environment Update

ENERGY AND CLIMATE DEBATE

Energy and environmental issues abounded on the congressional as well as international fronts last week, and they will continue to play a prominent role in the last couple of weeks of 2014.

The United Nations Framework Convention on Climate Change celebrated its 20th anniversary this December, with international climate negotiations in [Lima, Peru](#) December 1-12. The Lima talks mark the 20th Conference of Parties to the UNFCCC and the 10th Meeting of Parties to the Kyoto Protocol. After two weeks of talks, and more than 36 hours after the talks were scheduled to end, climate negotiators reached a modest agreement this past weekend for reducing greenhouse gas emissions that will be finalized next year in Paris. Under the [Lima Call for Climate Action](#), 196 countries pledged to craft nation-specific plans to reduce greenhouse gas emissions by early next year, but participants delayed decisions on other significant and divisive measures, including the Intended Nationally Determined Contributions. Negotiators agreed also to a separate [draft](#) negotiating text that will form the basis for the Paris discussions next year.

United Nations Secretary General Ban Ki-moon called December 9 for transformative climate talks, and the Green Climate Fund passed its \$10 billion threshold for the year after receiving a \$60 million pledge from Belgium. United States Secretary of State John Kerry led the U.S. delegation in the final days of the talks beginning December 10. Environmental groups continue to push negotiators to retain language pledging more than 190 nations to a goal of keeping global temperatures from rising more than two degrees Celsius, as outlined in the 2009 Copenhagen Accord.

Congress sent the \$1.1 trillion CROmnibus package to President Obama's desk late last week. The measure was originally Representative Donna Christensen's (D-VI) legislation requiring the Department of Interior to assemble a team of experts to study the energy needs of the United States' insular areas; the spending bill was added as an amendment. The hybrid omnibus and continuing resolution (H.R. 83) funds the federal government through next September. Most federal agencies receive full treatment under the measure, with the Department of Homeland Security receiving and CR through February.

The bill appropriates \$34.2 billion for energy- and water development-related programs for fiscal year 2015, a \$100 million increase from last year, including \$27.9 billion for the Department of Energy. The measure funds the Yucca Mountain repository. It also continues policy riders from previous spending bills that prohibit the Department of Energy from implementing or enforcing energy efficiency standards for certain incandescent light bulbs and Administration guidance restricting the Export-Import Bank and the Overseas Private Investment Corporation from financing coal-fired power plants

The measure would cut the Environmental Protection Agency's budget by \$60.1 million compared to last fiscal year, a reduction four times smaller than President Obama's request, primarily due to retaining funding levels for water infrastructure loan programs. The package includes policy riders that would impact environmental regulation, including, within the State Department, a prohibition on U.S. contributions to the global Green Climate Fund. The administration's \$3 billion pledge has yet to be included in a budget request, so the language is purely symbolic.

Funding for fiscal year 2015 would be steady or slightly higher for agencies within the Department of Interior, which overall is funded at about \$10.7 billion, up from 10.5 billion in fiscal year 2014, but regulatory decisions on the sage grouse under the Endangered Species Act will be barred.

Congress approved December 12 the National Defense Authorization Act (S. 1847). The measure included several bipartisan energy provisions, including extending a Bureau of Land Management pilot program that hastens the processing of oil and gas permit applications; incentivizing natural gas vehicles by removing a CAFE credit cap for natural gas dual-fueled vehicles; and allowing non-federal hydroelectric development at 11 Interior-controlled projects in the West.

Following the midterm elections, Democrats are picking up some new members in several committees and losing seats in others.

Senate Democratic energy and environment committee assignments, announced last week, are as follows:

Energy and Natural Resources:

- Ranking Member: Senator Maria Cantwell (WA)
- New members: Mazie Hirono (HI), Angus King (ME), Elizabeth Warren (MA)
- Returning members: Ron Wyden (OR), Bernie Sanders (VT), Debbie Stabenow (MI), Al Franken (MN), Joe Manchin (WV), Martin Heinrich (NM)
- Departing members still in the Senate: Brian Schatz (HI), Tammy Baldwin (WI)
- Members leaving the Senate: Mary Landrieu (LA), Tim Johnson (SD), Mark Udall (CO)

Environment and Public Works:

- Ranking Member: Barbara Boxer (CA)
- Returning members: Tom Carper (DE), Ben Cardin (MD), Bernie Sanders (VT), Sheldon Whitehouse (RI), Jeff Merkley (OR), Kirsten Gillibrand (NY), Ed Markey (MA)
- Departing members still in the Senate: Tom Udall (NM), Cory Booker (NJ)

Senate Republicans named December 15 four new members, all moving from the House, to the Energy and Natural Resources Committee: Senators-elect Cory Gardner (R-CO), Steve Daines (R-MT), Bill Cassidy (R-LA), and Shelley Moore Capito (R-WV). Senator Lisa Murkowski (R-AK) will become committee chair. Senators Dean Heller (R-NV) and Tim Scott (R-SC) will leave the committee.

Senate Republicans named December 15 three new members to the Environment and Public Works Committee: Senators-elect Shelley Moore Capito (R-WV), Mike Rounds (R-SD), and Dan Sullivan (R-AK), and Senator James Inhofe (R-OK) will assume the committee chairmanship.

On the House side, Representative Adam Kinzinger (R-IL) will replace Senator-elect Cory Gardner (R-LA) as the chair of the House Energy Savings Performance Caucus. Mr. Gardner co-founded the caucus with Representative Peter Welch (D-VT) in 2012. Representative Chris Van Hollen (D-MD) will become a co-chairman of the Bicameral Task Force on Climate Change with Senator Sheldon Whitehouse (D-RI), following Representative Henry Waxman's (D-CA) retirement.

The Senate will focus on finalizing the one-year tax extenders package (H.R. 5771) and completing a series of nominations issues before adjourning the 113th Congress this week. Energy nominations that remain high on the calendar include Colette Honorable for a spot on the Federal Energy Regulatory Commission; John Cruden to serve as assistant attorney general in charge of the Department of Justice's Environmental and Natural Resources Division; Estevan Lopez to head the Bureau of Reclamation; and Christopher Smith to serve as assistant Energy secretary for fossil energy.

The 113th Congress comes to a close this week, and we will do one final wrap up in next week's update before turning our attention fully to the 114th Congress and the final two years of the Obama Administration. In the meantime, stay tuned for energy and environment updates in the next few days.

CONGRESS

Stronger CPP Urged

Ten Democratic senators and Senator Bernie Sanders (I-VT) sent a [letter](#) December 9 to the Environmental Protection Agency urging the agency to establish more stringent CO2 emissions guidelines for existing power plants. Additionally, the senators urged the agency, under the Clean Power Plan, to require more investment in renewable energy and energy efficiency.

Additional CPP Compliance Time Sought

Six Democratic senators sent a [letter](#) December 9 to the Environmental Protection Agency asking for additional time within the Clean Power Plan for states to invest in new infrastructure to support expanded gas-fired generation while ensuring grid reliability. The letter asks the agency to eliminate the interim, 2020-2029, emissions rates targets, and only include the final 2030 target in the final rule.

CPP Concern Letter

Senator Deb Fischer (R-NE) led 22 of her Republican colleagues December 10 in a letter to the Environmental Protection Agency expressing their concerns about the Clean Power Plan. They specifically cited the interim targets, implementation timeline, and multi-state plans as areas of particular concern, and expressed a preference to withdraw the rule entirely. In remarks on the Senate floor December 11, Senator Chuck Grassley (R-IA) accused the agency of unconstitutionally reinterpreting the Clean Air Act to craft the rule and urged its withdrawal.

Early 2015 Issues

Representative Pete Olson (R-TX) said December 10 that Congress will advance several energy bills early next year. He mentioned legislation blocking the Environmental Protection Agency from revising the current national ozone standard until 85 percent of counties not meeting the current standard become compliant (H.R. 5505, S. 2833); waiving environmental regulations if power plants are ordered to operate in emergencies; and approving the Keystone XL pipeline.

RFS Dates Unknown

During a House Oversight and Government Reform Subcommittee on Energy Policy, Health Care, and Entitlements hearing December 10, Acting Assistant Administrator for the Office of Air and Radiation Janet McCabe denied requests to provide a projected date by which the agency will release a final 2014 Renewable Fuel Standard rule, or the 2015 and 2016 rules. The agency announced last month that it will not release final rule this year mandating the volumes of ethanol that must be blended into the country's gasoline supply, but instead will release final rules for 2014, 2015, and 2016 next year.

ADMINISTRATION

Coal Ash Standards Forthcoming

One hundred twenty environmental and public health advocacy groups sent a letter December 8 to President Obama urging the Administration to finalize strong coal ash regulations under the Resources Conservation and Recovery Act on time this year. The Environmental Protection Agency is expected to meet a December 19 court-ordered deadline to finalize the rule.

DEPARTMENT OF COMMERCE

U.S.-China Trade Meetings

Commerce Secretary Penny Pritzker said December 12 that she has high hopes for the 25th session of the U.S.-China Joint Commission on Commerce and Trade, scheduled to commence December 16 in Chicago. The meeting will examine issues that divide the two nations in the areas of intellectual property rights, agriculture, pharmaceuticals and medical devices, information technology, travel, and tourism. Secretary Pritzker said that the negotiations will focus on strategies for collaboration and growing the nations' \$617 billion/year trade relationship.

Final AD/CVD Determination Forthcoming

The Department of Commerce will announce December 16 a final determination that would enhance duties on solar panels from China and Taiwan, closing a loophole that has allowed some Chinese manufacturers to circumvent the 2012 duties. The agency assigned preliminary dumping margins July 24.

DEPARTMENT OF ENERGY

Clothes Washers' Efficiency Standard

The Department of Energy published a [final rule](#) December 8 establishing efficiency requirements for clothes washers. The rule goes into effect January 2018 and could result in as much as \$530 million in energy savings over

30 years. The rule would require front-loading commercial washers to use 18 percent less energy and top-loading commercial washers to use 15 percent less energy.

Efficiency Standards

Energy Secretary Ernest Moniz told the 2014 Behavior, Energy and Climate Change Conference December 9 that the agency plans to accelerate the number of new energy efficiency and conservation standards over the next two years. The agency is close to promulgating ten new standards this year, and will aim for 12 new rules in 2015.

Nuclear Loan Guarantees

The Department of Energy released December 10 a \$12.5 billion loan guarantee [solicitation](#) for advanced nuclear projects. The agency is accepting applications for all types of advanced nuclear project, but is particularly interested in advanced nuclear reactors, small modular reactors, front-end nuclear projects like uranium conversion, and upgrades to existing facilities to increase efficiency or capacity. The first deadline for the first part of submissions in March 18, with other deadlines following every six months.

DEPARTMENT OF JUSTICE

Extension for FERC Order 745 Review

The Supreme Court of the United States approved December 8 the Justice Department's request for a 30-day extension on formally blocking Order 745 in order to file an appeal asking the court to review the Federal Energy Regulatory Commission's demand response rule. The U.S. Court of Appeals for the District of Columbia Circuit vacated the rule in May. U.S. Solicitor General Donald Verrilli told the Supreme Court December 5 that he has decided to appeal the decision and needs an extra month to prepare the petition. The Solicitor General now has until January 15 to file a petition for review. The Electric Power Supply Association, the Edison Electric Institute, and other groups opposed to the rule filed a notice December 15 urging the U.S. Court of Appeals for the District of Columbia Circuit to block the rule immediately.

ENVIRONMENTAL PROTECTION AGENCY

CH4 Regs Forthcoming

Acting Assistant Administrator for the Office of Air and Radiation Janet McCabe told the Center for Strategic and International Studies and the Environmental Defense Fund December 8 that the Environmental Protection Agency will ensure that rules and voluntary programs to reduce oil and natural gas methane emissions do not conflict with other federal or state efforts. The agency is expected to announce soon potential new regulations and voluntary programs to reduce methane emissions.

RFS Dates Unknown

During a House Oversight and Government Reform Committee hearing December 10, Acting Assistant Administrator for the Office of Air and Radiation Janet McCabe denied requests to provide a projected date by which the agency will release a final 2014 Renewable Fuel Standard rule, or the 2015 and 2016 rules. The agency announced last month that it will not release final rule this year mandating the volumes of ethanol that must be blended into the country's gasoline supply, but instead will release final rules for 2014, 2015, and 2016 next year.

CSAPR Litigation

Industry groups and state and local government agencies filed opening briefs in the U.S. Court of Appeals for the District of Columbia Circuit December 10, charging that the Environmental Protection Agency does not have statutory authority to impose federal implementation plans for 22 states and that it unlawfully implemented part of the Clean Air Act's good neighbor provision in at least 14 states. The rule is scheduled to go into effect January 1, and the litigation's briefing schedule will continue into early next year, with the agency scheduled to file its brief by January 16, and a coalition of environmental and public health organizations filing theirs by January 23; oral arguments are scheduled for February 25.

FEDERAL ENERGY REGULATORY COMMISSION

CPP Conferences

The Federal Energy Regulatory Commission announced December 10 plans to conduct a series of [technical conferences](#) on the grid reliability impacts of the Environmental Protection Agency's Clean Power Plan. The first meeting will take place February 19 in Washington, D.C. Three regional sessions will follow in Washington, D.C., St. Louis, and Denver, with dates and times to be announced. Senator Lisa Murkowski (R-AK) and Representatives Fred Upton (R-MI) and Ed Whitfield (R-KY) sent a letter November 24 to Commission Chair Cheryl LaFleur requesting the technical conferences.

INTERNATIONAL

World Bank on Paris Deal

Speaking to the Council on Foreign Relations December 8, World Bank President Jim Yong Kim outlined his priorities for next year's global climate accord. Those policies should include binding language, country contributions, adaptation and mitigation funding, stakeholder coalitions, and carbon pricing.

Hanwha Solar Merger

South Korea's Hanwha Solar Holding Company announced December 8 that it is merging its U.S.-listed photovoltaic manufacturing affiliate with Hanwha Q Cells Investment Company in a deal that values the combined company at \$2 billion including debt. Hanwha SolarOne Company will acquire Thalheim, Germany-based Hanwha Q Cells.

EU Transportation Biofuels

Following a December 9 European Union Council of Energy Ministers agreement, European Union member states and the European Parliament began compromise negotiations December 10 to allow a seven percent cap on crop-based biofuels to count toward the bloc's mandatory 2020 renewable energy target. The European Commission has called for a five percent cap, while the European Parliament called for a six percent cap.

Climate Performance Ranking

GermanWatch and Climate Action Network Europe released December 10 the [2015 Climate Change Performance Index](#), ranking Denmark as the most environmentally responsible industrialized country in its actions to address climate change. The United States ranked 44th, and China ranked 45th.

Polish RE Fine

European Court of Justice Advocate General Melchior Wathelet [concluded](#) December 11 that Poland has not fulfilled its legal obligations to adopt the 2009 Renewable Energy Directive or inform the European Union executive of its legislative deliberations. Poland will be required to pay a daily fine of \$75,497 for its failings until it notifies the European Commission of its efforts to enter into compliance.

EU Energy-Intensive Industry Exemptions

The European Court of Justice rejected December 11 a legal challenge (T-251/11) by the Austrian government, backing restrictions on electricity charge exemptions for energy intensive industries. The court backed a European Union antitrust authority's 2011 decision.

Biomass Regs Needed

The Executive Body for the Convention on Long-Range Transboundary Air Pollution released December 12 a [report](#) finding that as biomass use has increased in Europe and North America in response to national climate policies, new regulations are needed immediately to reduce related emissions.

STATES

CO Fracking Litigation

The Colorado Court of Appeals ruled last week to allow fracking operations to move forward in Fort Collins while the city appeals a lower court's invalidation of its five-year fracking moratorium.

MISCELLANEOUS

RE, EE Cost Utilities

Accenture released a [report](#) December 8 finding that increasing solar power and energy efficiency could cost American utilities as much as \$48 billion a year in lost revenue by 2025. Accenture concluded that a more likely demand disruption scenario would lead to annual revenue loss of \$18 billion for utilities by 2025.

* * *

View ML Strategies professionals.

Boston · Washington www.mlstrategies.com