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STRATEGIES

David Leiter DJLeiter@mlstrategies.com
Sarah Litke SLitke@mlstrategies.com
Bryan Stockton BStockton@mlstrategies.com
Jordan Collins JMCollins@mlstrategies.com
Neal Martin RNMartin@mlstrategies.com

ML Strategies, LLC
701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004 USA
202 434 7300
202 434 7400 fax
www.mlstrategies.com

ENERGY & ENVIRONMENT UPDATE

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ENERGY AND CLIMATE DEBATE

As Congress wrapped up the first session of the 113th Congress, the House and Senate came together to finalize several pieces of legislation, and policymakers prepared the way for changes to come in 2014.

After the House passed the bipartisan budget deal week before last, the Senate sent the measure December 18 to President Obama for his signature. Senate Appropriations Chair Barbara Mikulski (D-MD) and House Appropriations Chair Hal Rogers (R-KY) have begun discussions and will be working through the new year to craft a 12-bill omnibus package that Congress will address when it returns in January. The House is expected to consider the measure by January 10 and the Senate is expected to take up the bill by January 13.

The Senate also sent the National Defense Authorization Act to the president's desk at the end of the week. That measure includes a provision that prohibits the Defense Department from using fiscal year 2014 funds for bulk purchases of drop-in fuel for operational purposes, unless the cost of that drop-in fuel is cost competitive with traditional fuel, subject to a national security waiver. However, the Defense Department has said it expects to produce drop-in biofuels at less than \$4 per gallon by 2016.

With the close of 2013 looming, tax extenders will be allowed to expire, and efforts are underway to resurrect comprehensive tax reform discussions in 2014. In the meantime, policymakers on both sides of the aisle touted their preferences on various aspects of the traditional tax extenders package last week, including via December 16th letters from the House Sustainable Energy and Environment Coalition and Senator Ed Markey (D-MA), which we shared with you last week. Though Senate Majority Leader Harry Reid (D-NV) had briefly hoped on Thursday to fast track a series of 57 temporary tax provisions, Republicans objected to the motion, and the effort will resume in the new year. Shortly after suggesting that tax extenders efforts, and particularly those related to energy issues, might be readdressed early in the new year, Senate Finance Chairman Max

Baucus (D-MT) unveiled December 18 his energy tax concept paper, his proposal for reforming the energy section of the tax code.

Senator Baucus' [proposal](#) would consolidate and extend many – 44 – of the current tax breaks for clean energy and energy efficiency, while reducing their \$150 billion price tag over the next decade by more than half. In its place, the [plan](#) would establish two broader clean electricity and fuel incentives based on greenhouse gas emissions, as determined by the Environmental Protection Agency. The clean electricity credit would apply to new power sources including renewables, natural gas, nuclear, and existing fossil-fired power plants retrofitted with carbon capture and sequestration technologies, and would be available as a 2.23 cent/KW production tax credit or as an investment tax credit of up to 20 percent. The clean fuel credit would be made available for the domestic production of clean transportation fuels about 25 percent cleaner than conventional gasoline as either a 20 percent investment tax credit or a production tax credit with a maximum value of \$1/gallon. Savings would then be used to help finance a reduction in the top corporate tax rate of 35 percent, and though the plan does not include a carbon tax, Senator Baucus is seeking comment on the validity of such a proposal. The [plan](#) does extend several of the tax breaks scheduled to expire at the end of the year, including the production tax credit, but it allows others to elapse completely.

Further complicating energy tax efforts, however, President Obama nominated Senator Baucus as Ambassador to China on December 20. Senator Baucus had already announced his plans to retire next year after six terms in the Senate, but his early departure will trigger a domino effect on the Senate Energy and Natural Resources Committee. Senator Jay Rockefeller (D-WV), who is also retiring next year, is next in line for the Finance Committee gavel, but he has expressed a desire to remain Chair of the Commerce Committee. That means that Senator Ron Wyden (D-OR), who currently serves as the pragmatic chairman of the Senate Energy and Natural Resources Committee, is likely to take the top slot on the committee. He called Senator Baucus' energy tax reform proposal a "promising approach" last week. Though all of the invested parties have been mum on the process, reserving their comments for notes of congratulations instead, should Senator Wyden make that move, Senator Mary Landrieu (D-LA), who is up for reelection this November, is on deck to assume leadership of the Senate Energy and Natural Resources Committee because Senator Tim Johnson (D-SD), who is next in seniority to become chair of the committee, would have to leave his chairmanship of the Senate Banking Committee to do so, and he has expressed a preference for remaining in his post with the Banking Committee.

In the meantime, Senator Wyden and Energy and Natural Resources Committee Ranking Member Lisa Murkowski (R-AK) promised last week to pack the panel's January calendar in the hope of moving forward with a substantial energy agenda early in the year. Senator Murkowski announced early last week that she would release a white paper and give a speech on energy exports January 7.

House and Senate conferees are expected to finalize a compromise Farm Bill in early January. The Energy Title of that bill is expected to receive full mandatory funding of approximately \$900 billion over five years.

Senate Environment and Public Works Committee Barbara Boxer (D-CA) and Senate Environment Ranking Member David Vitter (R-LA) are still working with their House counterparts on reaching a compromise on the Water Resources Development Act. The House and Senate conferees are hoping to finish the legislation as soon as possible when Congress returns from recess in early January. The House and Senate passed their respective water resources bills by overwhelming margins earlier this year.

Senators Jeanne Shaheen (D-NH) and Rob Portman (R-OH) are also expected to move forward with another version of their energy efficiency package early in the year.

CONGRESS

Arctic Lease Auction Suspension Sought

Senators Jeff Merkley (D-OR), Dick Durbin (D-IL), Sheldon Whitehouse (D-RI), Barbara Boxer (D-CA), Ed Markey (D-MA), and Bernie Sanders (I-VT) sent a [letter](#) to Interior Secretary Sally Jewell December 16 asking the agency to suspend plans to auction new leases in the Chukchi Sea off Alaska's northern coast in 2016 and at subsequent sales. The group is seeking a thorough reevaluation on environmental risks before more leases are granted.

Amicus Briefs Continue to Roll in on EPA GHG Case

Senators Jim Inhofe (R-OK, Roy Blunt (R-MO), Deb Fischer (R-NE), Jerry Moran (R-KS), and Pat Roberts (R-KS) filed an [amicus brief](#) December 16 with the Supreme Court arguing that the Environmental Protection Agency incorrectly found that its regulation of greenhouse gas emissions from vehicles triggered Clean Air Act permitting requirements for stationary sources that emit GHGs, and asked the court to reverse a court of appeals decision that upheld the rule. The Environmental Protection Agency's brief is due January 21, and the court will hear oral arguments in the case February 24.

ENR Approves Energy Nominations

The Senate Energy and Natural Resources Committee approved December 17 the nomination of Chris Smith to be assistant energy secretary for fossil energy. During the same meeting, the committee approved the nominations of Steven Croley to be the agency's general counsel and Esther Kia'aina to be the Department of Interior's assistant secretary for insular areas.

Senate Climate Plans for 2014

Senate Environment and Public Works Chair Barbara Boxer (D-CA) said December 18 that she and Senator Sheldon Whitehouse (D-RI) are planning to focus anew on climate change in 2014. Noting that they have been working on it with Majority Leader Harry Reid (D-NV) for the past few months, she said that they would offer details at a press conference in January.

Domestic Energy Production's Impact on National Security Sought

Senate Energy and Natural Resources Ranking Member Lisa Murkowski (R-AK) sent a letter December 18 asking the president to detail the benefits of domestic oil and natural gas production in the national security strategy he is expected to release in January. A national security strategy release in May 2010 addressed clean energy technologies, but not domestic oil and natural gas.

CO2 Storage Questions Remain

Members of the House Science Committee sent a [letter](#) to Environmental Protection Agency Administrator Gina McCarthy December 19 expressing concern that the agency's proposed New Source Performance Standards does not address where the CO2 that coal-fired power plants will be required to store using carbon capture and storage technologies will actually be stored.

Vitter Outlines His 2014 EPW Plans

Senate Environment and Public Works Committee Ranking Member David Vitter (R-LA), said December 19 that he is working with Senators Ben Cardin (D-MD) and Tom Udall (D-NM) to

revamp the federal renewable fuels mandate, and that he is hoping that the panel will act in early 2014 on it, a new highway bill, and a the Toxic Substances Control Act reform bill.

Climate Action Necessary at Interior

The Bicameral Task Force on Climate Change released a [whitepaper](#) December 19 calling for the Department of Interior to take steps to implement the president's Climate Action Plan. The report recommends that the agency reduce methane pollution from oil, gas, and coal production by reducing venting and flaring on federal lands; assessing leaks from pipelines on federal lands; enacting methane emissions standards from coal mining on federal land; fast-tracking renewable energy projects; and revisiting fossil fuel subsidies, among other things.

Energy Efficiency Legislation Updates

Senators Jeanne Shaheen (D-NH) and Rob Portman (R-OH) announced on the Senate floor December 19 that they are working to improve bipartisan amendments, many of which cleared the Energy and Natural Resources Committee earlier this year, to their energy efficiency measure into a new bill that they hope to bring to the floor early in 2014. This would be the third version of the legislation introduced this session of Congress.

USTR Tar Sands Clarification

Senator Sheldon Whitehouse (D-RI) and Representative Henry Waxman (D-CA) and nineteen congressional Democrats wrote December 20 to U.S. Trade Representative Michael Forman to voice their concern that the Trade representative might be pressuring the European Union to alter its Fuel Quality Directive that would discourage the use of tar sands fuels.

DEPARTMENT OF COMMERCE

Solar Panels at Headquarters

The Department of Commerce installed three solar panels on the roof of its headquarters, the Herbert C. Hoover Building, last week. The installation is a collaboration between the Office of Facilities and Environmental Quality's Office of Space and Building Management and Office of Sustainable Energy and Environmental Programs. The National Oceanic and Atmospheric Administration and the National Institute of Standards and Technology have already installed panels on some of their facilities in recent years.

DEPARTMENT OF DEFENSE

PV Origins Clarification Issued

The Department of Defense published an [interim rule](#) in the Federal Register December 20 on photovoltaic device origins, when trade agreements provide an exception to the Buy American rules. The agency consulted with the U.S. Trade Representative to clarify questions that had arisen regarding some solar panels and existing regulations.

DEPARTMENT OF ENERGY

Annual Energy Outlook Released

The Energy Information Administration released its [Annual Energy Outlook](#) December 16, predicting that daily U.S. crude-oil production will reach 9.5 million barrels per day in 2016, before leveling off and slowly falling after 2020. The report concluded that domestic natural gas production would increase by 56 percent between 2012 and 2040, with rising exports likely.

State Energy Profiles Released

The Energy Information Administration released its [State Energy Profiles](#) December 19. The profiles are available through the agency's State Energy Portal, and include new enhanced and renewable energy sections.

Loan Guarantee Reapplication Delayed for USEC

USEC announced December 19 that it will not reapply for a Department of Energy loan guarantee for its Ohio enrichment project until after it completes forthcoming proceedings and restructures its budget next year. The company announced earlier in the week that it planned to file for Chapter 11 bankruptcy in the first quarter of 2014. The agency will work to extend its Research, Development, and Demonstration program cost-share agreement until mid-April.

Chu to CCS Company

Former Department of Energy Secretary Steven Chu joined the Board of Inventys Thermal Technologies last week. The carbon capture company touts a process that uses less energy than conventional technologies and is less expensive.

Additional Time Denied for Nuclear Waste Fee Determination

The D.C. Circuit Court of Appeals rejected December 20 the Department of Energy's request for more time to decide whether to challenge its decision to zero out the nuclear waste fee. The agency had asked the court for a 31-day extension, but the January 3 deadline will persist.

DEPARTMENT OF INTERIOR

\$7 Million for Climate Change Impact Studies

The Department of Interior's eight regional Climate Science Centers announced last week that they would award nearly \$7 million to universities and other partners for more than 50 studies focused on climate change's impact on natural resources and potential mitigation solutions.

MD Offshore Wind Auction Announced

The Department of Interior announced plans December 17 to auction [areas](#) off the Maryland coast for offshore wind projects. The area covers 79,707 acres and could support up to 1.2 GW of wind power. Maryland Governor Martin O'Malley (D) recently signed legislation requiring utilities to obtain 2.5 percent of their electricity from offshore wind by 2017. Comments will be accepted through February 18, with a final sale notice to follow.

DEPARTMENT OF STATE

\$17 Million for Vietnam Climate Effort

Speaking from Vietnam's Mekong Delta December 15, Secretary of State John Kerry vowed cooperation on climate change and warned China about the environmental impacts of building dams upriver. He announced that the U.S. would provide an initial \$17 million through USAID's Vietnam Forest and Deltas Program to help reverse environmental degradation and adapt to climate change.

US-Colombia Environmental Trade Collaboration

The Environmental Affairs Council and the Environmental Cooperation Commission, two U.S.-Colombia intergovernmental environmental commissions, held their first meetings at the State Department December 18-19 and signed an Environmental Cooperation Agreement work program for 2014-2017. Colombia will host a second meeting in 2014.

ENVIRONMENTAL PROTECTION AGENCY

Stringent but Flexible Regs Sought

Energy and environment officials from fifteen states [urged](#) the Environmental Protection Agency December 16 to develop a stringent but flexible framework for reducing CO2 emissions from existing power plants. The states argue that a system-wide approach could achieve more cost-effective and significant CO2 reductions. The agency will propose standards by June 2014 and will finalize them by 2015.

CO2 Injection Exempted from Hazardous Waste Regs

The Environmental Protection Agency issued a [final rule](#) December 19 governing injection wells for long-term CO2 storage. The agency has already crafted regulations under its Underground Injection Control program to allow for underground CO2 injections for storage purposes, and the clarification assures that the captured and injected CO2 will be excluded from other hazardous waste regulations.

McCabe Nominated

The White House formally nominated Janet McCabe December 20 to be the Environmental Protection Agency's assistant administrator for air and radiation. Ms. McCabe has served as acting administrator since Gina McCarthy was confirmed as EPA administrator.

ECOS Support for EPA Budget

The Environmental Council of the States wrote December 20 House and Senate Appropriations committees urging them to provide funding for the Environmental Protection Agency at least as high as President Obama's fiscal year 2014 request. The president requested \$8.2 billion in total funding for the EPA.

DEPARTMENT OF JUSTICE

President Obama December 20 nominated John Cruden to be assistant attorney general for environment and natural resources. Cruden previously served as deputy assistant attorney general and before that as chief of the environmental enforcement section in the Environment and natural Resources Division.

FEDERAL ENERGY REGULATORY COMMISSION

Entergy Joins MISO

The Federal Energy Regulatory Commission applauded December 19 Entergy Corp. for joining the Midcontinent Independent System Operator, the regional grid operating system that now stretches from Canada to the Gulf Coast. The transition became effective at midnight December 18.

INTERNATIONAL

Emissions Permit Glut Curtailed

European Union agriculture ministers approved an emergency amendment December 16 to alleviate a record glut of emissions permits in the region's carbon market. Postponement of the sales of as many as 900 million allowances could help prices recovery from near all-time lows.

Canada Approves 4 LNG Export Applications

Canada's National Energy Board approved four liquefied natural gas export applications for plants proposed on Canada's west coast December 16. Approved applications include Prince Rupert LNG Exports Ltd., proposed by the BG Group; Pacific NorthWest LNG Ltd., proposed by PETRONAS/Progress Energy; WCC LNG Ltd., representing Imperial Oil and ExxonMobil Canada Ltd.; and Woodfibre LNG Export Pte. Ltd., proposed by Woodfibre Natural Gas Limited. The approvals are subject to review and approval at the federal level, and the projects will need to undergo environmental assessments.

International Climate Accord by 2015 Difficult

U.N. Secretary General Ban Ki-moon said December 17 that finalizing an international climate change agreement over the next two years would require significant work in 2014 through additional high level meetings.

Southern Leg of Keystone Running by January 22

TransCanada announced December 17 that it expects to begin shipping oil on the southern leg of the Keystone XL pipeline on January 22. The pipeline owner is currently filling the new system with three million barrels of oil, and once it begins operation, the pipeline, storage unites, and pumping stations will be able to move up to 700,000 barrels of oil per day from Cushing, Oklahoma to Nederland, Texas, and then through lines to refineries along the Gulf Coast.

EU Mobile Source CO2 Limit

The European Parliament's Environment Committee approved December 17 a proposed regulation that would require private vehicles sold in the bloc to comply with an average 95 grams per kilometer carbon dioxide limit by 2021. The full Parliament and European Union Council are expected to ratify the regulation in early 2014.

German Renewable Energy Financing Discounts Investigated

The European Commission opened an investigation December 18 into whether discounts German energy-intensive companies receive on surcharges for renewable energy financing violate European Union state aid rules. The country may have to reform its discount system, and energy-intensive companies could be charged retroactively, potentially endangering the entire financing scheme.

Keystone's Rival Pipeline Approved

Canada's National Energy Board granted environmental approval with 209 conditions to Enbridge's Northern Gateway December 19. The two 620-mile pipelines from Alberta to Canada's West Coast are the largest rival Canadian pipelines to the delayed Keystone XL pipeline. The project would cost about \$7.4 billion to build, and would be completed by late 2018. The report goes to the Natural Resources Canada minister, who will submit it to the federal cabinet for approval.

Comments on Energy East Pipeline Sought

The Ontario Energy Board asked December 19 for comments on TransCanada's proposed \$11.4 billion Energy East Pipeline project that would convert an existing natural gas pipeline to transport crude oil from Alberta's oil sands region to New Brunswick for refining and exporting.

Argentina Challenges EU Biodiesel Duties

Argentina initiated a World Trade Organization dispute complaint December 19 to challenge the European Union's imposition of antidumping duties on biodiesel imports from Argentina. The country's foreign ministry disclosed that the duties have essentially closed a \$1.5 billion annual

export market. Argentina is the world's largest biodiesel exporter, with an estimated 1.6 MMT of exports in 2012.

STATE

NY Fracking Case

Dryden, NY, filed a response brief December 16 to one of two landmark fracking cases before the New York Court of Appeals, contending that the state Oil, Gas, and Solution Mining Law does not preempt a local zoning ordinance banning fracking in the town. The same day, New York Governor Andrew Cuomo (D) and his health commissioner decline to provide a specific time frame for the state health review of fracking.

NY Finalizes RGGI Implementation

New York published final rules in the State Register December 18 to implement changes in the Regional Greenhouse Gas Initiative program. All nine of the RGGI states have now adopted the cap and trade program's model rule proposed in February.

\$120 Million for NY Green Bank

New York Governor Andrew Cuomo (D) announced December 19 that the state's Green Bank will have \$210 million in initial funding, and will ultimately garner \$1 billion in support. The bank is scheduled to be open next year, when it will offer clean energy deployment projects.

PA Fracking Law Partially Struck

The Pennsylvania Supreme Court ruled 4-2 December 19 to strike down part of Act 13, a law aimed at easing natural gas development in the Marcellus Shale formation, finding that provisions of the measure violate the state's constitution by restricting the power municipalities have to govern gas drilling in their jurisdictions.

CA Energy Efficiency Translates to Water Issues

The Pacific Institute released a report last week finding that California's energy efficiency success can be applied to making water use more efficient as well.

SUSTAINABILITY

Global E-Waste Growing

The United Nations released a report December 16 finding that global volumes of electronic waste are expected to increase by a third to 65.4 million tons by 2017. The [report](#) concluded that the U.S. and China comprise the two largest sources of e-waste in the world, and is one of the first attempts to quantify the scale of waste generation by country.

Half of Corporate GHG Targets Align with Global Goals

Climate Counts released a [study](#) December 18 finding that half of corporate greenhouse gas emissions targets align with international climate goals. The organization hopes the study will encourage companies to put their internal emissions goals into the global context.

Sustainability Rating Accreditation Principles Finalized

The Global Initiative for Sustainability Ratings finalized the twelve core [principles](#) it will use to accredit systems that measure corporate sustainability performance December 19. The initiative will identify themes of corporate performance late next year, and the metrics applied to those issues in late 2015.

MISCELLANEOUS

Climate Change Causes Higher Water Scarcity Risk

The Potsdam Institute for Climate Impact Research released a [study](#) December 17 finding that climate change is likely to put 40 percent more people at risk of absolute water scarcity compared with population pressures. Additional research is necessary to demonstrate how technological developments could alleviate the water concerns.

NAM Praises Administration's Energy Savings Contracting

The National Association of Manufacturers released the [Improving Federal Energy Savings Through Performance Contracting](#) report December 19, finding that President Obama's 2011 plan to put at least \$2 billion into hiring contractors for energy efficiency upgrades at federal buildings is an "unqualified success." The group is urging the administration to continue the program under a five-year, \$5 billion goal.

Poll Finds Americans Concerned about Climate Change

A poll conducted for USA Today released December 20 found that most Americans believe that global warming is serious and want the country to address it, but their support for government regulations has fallen in recent years.