



ML Strategies Update

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Energy & Environment Update

ENERGY AND CLIMATE DEBATE

The House and Senate are in recess for the Easter and Passover holidays, but prior to their departure, they spent much of last week debating the fiscal year 2016 budget.

The House approved its fiscal year 2016 budget resolution (H. Con. Res. 27) March 25. House Appropriations Committee Chair Hal Rogers (R-KY) said March 26 that the committee would begin work April 13 on developing allocations for the 12 spending bills now that the House has passed the fiscal year 2016 budget resolution. The committee held more than 20 hearings on the budget last week alone. The \$1.017 trillion discretionary spending total in the budget resolution allows for little spending growth, but Representative Rogers remains determined to get the spending bills out of the committee and passed on the House floor.

The Senate passed its fiscal 2016 budget resolution (S. Con. Res. 11) very early the morning of March 27, largely along party lines. In a lengthy list of 791 amendments, the measure included several energy and environment amendments, such as nonbinding language from Senate Majority Leader Mitch McConnell (R-KY) that calls for a ban on the withholding of highway funds from states that refuse to submit state implementation plans under the Environmental Protection Agency's Clean Power Plan, and an amendment from Senator Michael Bennet (D-CO) to address the economic, health, and national security threats posed by climate change. The measure also included amendments addressing carbon taxes, Clean Water Act jurisdiction, and land exchanges between states and the federal government. Other energy-related amendments that were left on the cutting floor include text from Senator Bill Nelson (D-FL) that would prohibit the muzzling of federal agencies and employees who use the terms "climate change" and "global warming" and language from Senator Bernie Sanders (I-VT) expressing a sense of the Senate that climate change is real and caused by human activities and that Congress needs to reduce greenhouse gas emissions.

The House and Senate budget resolutions must still be reconciled, and members of the chambers' budget committees expect to complete the process by April 15.

In a surprise early morning vote just after the Senate passed its fiscal 2016 budget resolution March 27, Senators Rob Portman (R-OH) and Jeanne Shaheen (D-NH) passed their mini energy efficiency bill, the Energy Efficiency Improvement Act (S. 535). The pair has been trying to move the measure through the Senate for almost four years. They and presiding officer Senator John Boozman (R-AR) were the only members on the floor. The voice vote sends the measure to the House. The legislation includes language the House passed in the 113th Congress to loosen efficiency standards for grid-enabled water heaters, increase government data center efficiency, and promote commercial building efficiency, while their larger Energy Savings and Industrial Competitiveness Act (S. 720) must still be addressed in the upper chamber.

Senate Minority Leader Harry Reid (D-NV) announced March 27 that he will retire at the end of his term. Senator Reid has served in Washington since 1983, first in the House and then for the majority of his tenure in the upper chamber. He endorsed Senator Chuck Schumer (D-NY) as his replacement, but his retirement will leave a void not only in the party's leadership, but also in the debate on fossil fuels, modernization of the electric grid, and nuclear power, as well as leadership on environmental issues.

CONGRESS

Ethics Conflict Inquiry

Senate Environment and Public Works Committee Chair James Inhofe (R-OK) sent a letter to the White House March 23 questioning whether Megan Ceronsky's, senior adviser to the Office of Energy and Climate Change, prior climate change work at the Environmental Defense Fund presents ethics conflicts that would prevent her from working on climate issues such as the Clean Power Plan.

House Coal Ash Flexibility

The House Energy and Commerce Subcommittee on Environment and the Economy approved March 25 the Improving Coal Combustion Residuals Regulation Act. The measure would give states flexibility in regulating coal ash and would prohibit the Environmental Protection Agency from regulating the material as a hazardous waste.

NEPA Guidance Opposition

Six Republican senators led by Senate Environment and Public Works Chair James Inhofe (R-OK) sent a [letter](#) March 26 to White House Council on Environmental Quality Chief Christy Goldfuss calling on the administration to withdraw its draft guidance for considering greenhouse gas emissions and climate change impacts in National Environmental Policy Act reviews of major projects and federal land management.

Fracking Rule Opposition

Congressional Democrats and Republicans expressed opposition during a March 26 House Natural Resources Subcommittee on Energy and Mineral Resources hearing on the Department of Interior's Bureau of Land Management's recent fracking rule. Democrats called the fracking proposal too weak to ease pollution concerns, while Republicans expressed disapproval over new fees and increased royalty rates. The same day, Wyoming filed a lawsuit in the U.S. District Court for the District of Wyoming to charge that the rule exceeded the bureau's statutory jurisdiction, conflicted with the Safe Drinking Water Act, and unlawfully interfered with Wyoming's fracking regulations.

CPP Delay Language

Representative Ed Whitfield (R-KY) unveiled a [discussion draft](#) of his Ratepayer Protection Act March 23. The measure seeks to delay the Clean Power Plan by extending the compliance date for states to submit their plans until any legal challenges to the rule are resolved and gives states the authority to reject compliance on economic grounds. The House Energy and Commerce Subcommittee on Energy and Power will hold a hearing on the legislation April 14.

Legislation Introduced

Senators Lisa Murkowski (R-AK) and Lamar Alexander (R-TN) introduced legislation (S. 854) March 24 to establish a new organization to manage nuclear waste, provide a consensual process for siting nuclear waste facilities, and ensure adequate funding for managing nuclear waste. The following day, Senator Alexander said that Senate appropriators will include language authorizing the Department of Energy to develop interim nuclear waste storage sites as part of the fiscal year 2016 energy and water spending bill.

Senator Cory Gardner (R-CO) introduced legislation (S. 858) March 25 to amend the National Energy Conservation Policy Act to encourage the increased use of performance contracting in Federal facilities. Representative Adam Kinzinger (R-IL) introduced companion legislation in the House.

Senator Maria Cantwell (D-WA) introduced legislation (S. 859) March 25 to protect the public, communities across the country, and the environment by increasing the safety of crude oil transportation by railroad.

Representative Kevin Cramer (R-ND) introduced legislation (H.R. 1616) March 25 to authorize the approval of natural gas pipelines and establish deadlines and expedite permits for certain natural gas gathering lines on Federal land and Indian land.

Representative Todd Young (R-IN) introduced legislation (H.R. 1665) March 26 to amend the Internal Revenue Code of 1986 to equalize the excise tax on liquefied natural gas and liquefied petroleum gas.

Representative Carlos Curbelo (R-FL) introduced legislation (H.R. 1684) March 26 to amend the Oil Pollution Act of 1990 and the Federal Water Pollution Control Act to impose penalties and provide for the recovery of removal costs and damages in connection with certain discharges of oil from foreign offshore units.

Upcoming Hearings

The House Energy and Commerce Subcommittee on Energy and Power will hold a hearing on the Representative Ed Whitfield's (R-KY) Ratepayer Protection Act April 14.

The Senate Energy and Natural Resources Committee will hold a hearing April 16 on the Energy Information Administration's Annual Energy Outlook for 2015.

The Senate Energy and Natural Resources Subcommittee on Public Lands, Forests, and Mining will hold a hearing April 16 on the Bureau of Land Management's final fracking rule.

The Senate Energy and Natural Resources Committee will hold a hearing April 22 on the reauthorization of and potential reforms to the Land and Water Conservation Fund.

The Senate Energy and Natural Resources Committee will hold a hearing April 28 on the Department of Energy's Quadrennial Energy Review. Energy Secretary Ernest Moniz will testify.

The Senate Energy and Natural Resources Committee will hold a hearing April 30 on energy efficiency legislation, including the Weatherization Enhancement and Local Energy Efficiency Investment and Accountability Act (S. 703), the Energy Savings and Industrial Competitiveness Act of 2015 (S. 720), and the Energy Savings Through Public-Private Partnerships Act of 2015 (S. 858).

ADMINISTRATION

US-Mexico Collaboration

The White House announced March 27 that the United States and Mexico would launch a climate and energy task force as part of a larger collaboration to reduce their greenhouse gas emissions. The task force will work to improve policy and regulatory coordination in areas such as clean electricity, grid modernization, appliance standards, and energy efficiency; promote more fuel efficient vehicle fleets in both countries, global and regional climate modeling, weather forecasting, and early alerts systems; and work to harmonize their respective heavy-duty diesel and light-duty vehicle emission standards and reduce hydrofluorocarbons. Energy Secretary Ernest Moniz and Mexican Secretary of Environment and Natural Resources Juan José Guerra Abud will co-chair the task force, which will meet for the first time this spring.

Climate Plan to UN

The White House will formally submit this week its climate change strategy to the United Nations. The plan, as well as the national plans for almost 200 other countries, will form the foundation of a broad global climate change agreement, which participating nations hope to finalize at the United Nations Framework Convention on Climate Change December summit in Paris. The U.S. plan is not expected to include much new information, instead reiterating the Obama Administration's goal to reduce greenhouse gas emissions by 26-28 percent below 2005 levels by 2025. The European Union, Mexico, Norway, and Switzerland have submitted their Intended Nationally Determined Contributions already, and most other significant emitters are expected to submit their plans by June.

DEPARTMENT OF ENERGY

Nuclear Waste Plan

The Department of Energy rolled out a proposal March 24 to begin addressing the country's growing nuclear waste. President Obama authorized the agency to create a repository for defense-related nuclear waste that was originally directed to Yucca Mountain to be stored with waste from commercial power reactors.

Water Heater Rule

The Department of Energy proposed March 25 new definitions for residential water heaters that are used as backup sources in thermal water heating systems.

\$259 Million for Alternative Vehicles

The Department of Energy's Advanced Technology Vehicles Manufacturing program offered Alcoa March 26 a \$259 conditional loan commitment. The program last offered a loan guarantee in March 2011. Alcoa plans to use the financing to help expand its Alcoa, Tennessee manufacturing facility to produce high strength aluminum to reduce new vehicle weight in an effort to build more fuel efficient, lightweight vehicles.

Furnace Standard Comments

The American Gas Association, the American Public Gas Association, and other industry groups commented during a March 27 public meeting that a Department of Energy proposed rule to adopt new residential non-weatherized gas furnace and mobile home furnace efficiency standards will be too costly to implement and raised concerns that the rulemaking process had not been transparent. The March 12 proposed rule is a partial fulfillment of a court-ordered remand of the agency's 2011 rulemaking on the products. If adopted, the proposed standards would require the furnaces to meet a 92 percent minimum annual fuel utilization efficiency and would have to be in compliance by 2021.

Water Heater Conversion Factor

The Department of Energy proposed a [rule](#) March 27 to establish a mathematical conversion factor for consumer water heaters and certain commercial water heaters. The conversion factor would translate efficiency ratings under the July 2014 final rule test method for water heaters manufactured, tested, and certified before the compliance date of the amended test procedure.

DEPARTMENT OF INTERIOR

VA Offshore Wind

The Bureau of Ocean Energy Management issued March 24 its first research lease for offshore wind, off the coast of Virginia Beach. Dominion will build two over-500 feet Alstom turbines by 2017 after an environmental review of the area is complete. The Virginia Offshore Wind Technology Advancement Project research lease is intended to demonstrate that such large turbines can be installed 24 miles offshore, collect data on the area's wind resources ahead of potential future projects, and identify and solve problems in offshore development.

ENVIRONMENTAL PROTECTION AGENCY

Cellulosic Data

The Environmental Protection Agency released an [information collection request](#) March 24 for additional data from cellulosic biofuels producers as it seeks to improve its process for setting the annual renewable fuel standard. The agency has consistently overestimated the amount of cellulosic biofuel that can be produced each year when it sets the annual blending mandate.

MATS at Supreme Court

The Supreme Court heard [oral arguments](#) March 25 in litigation over the Environmental Protection Agency's 2012 Mercury and Air Toxics Standards. In reviewing the three consolidated cases, the court appears to have differing views, particularly about the "appropriate and necessary" language and the timing of cost consideration on whether the agency adequately considered the costs of regulating emissions of mercury and other hazardous air pollutants from power plants. The Supreme Court is reviewing a 2014 decision by the U.S. Court of Appeals for the District of Columbia Circuit, which upheld the rule after concluding that the agency's decision making was reasonable and that it deserves deference. The rule is projected to cost power plants \$9.6 billion a year, which challengers contend will put older plants out of business and raise the cost of power for consumers.

Cellulosic Credit Prices

The Environmental Protection Agency announced in a [direct final rule](#) March 25 that it will revise its method of calculating and publicizing the annual costs for cellulosic ethanol waiver credits. The new system will allow the agency to post the annual credit prices on its website even if the renewable fuel standard is delayed. The agency announced the credit price for the 2014 compliance period at \$0.49 and for the 2015 compliance period at \$0.64.

111(b) Criticism

The Attorneys General of Louisiana, Nebraska, and West Virginia sent a letter March 25 to Environmental Protection Agency Administrator Gina McCarthy finding that the proposed greenhouse gas emission standards for new power plants, the 111(b) standards, fail to meet the timing requirements in its rulemaking process, and that it should have promulgated the standards no later than one year following publication of the proposed rule, or no later than this January. The states were joined by 13 other states in submitting extensive comments on the proposed rule last May, charging that it is unlawful. The agency plans to finalize the standards this summer. Nineteen state attorneys general sent a similar letter to the agency last week calling for it to drop its draft greenhouse gas rule for existing power plants, the 111(d) standard, because of its decision to delay a similar final rule for new power plants.

Vehicular Emissions Targets

The Environmental Protection Agency released a report March 26 finding that the automobile industry exceeded the administration's emissions standard for the second year in a row. Nine out of the 13 vehicle manufacturers with

sales greater than 100,000 outperformed their greenhouse gas emissions limit targets in 2013 models. Volkswagen, Fiat Chrysler, Mercedes, and BMW, which did not beat their standard, met the federal greenhouse gas benchmarks by taking advantage of credits from previous years as part of the standard's flexibility.

CPP State Plans

Environmental Protection Agency General Counsel Avi Garbow told the American Bar Association Section of Environment, Energy, and Resources spring conference March 26 that the agency wants all states to prepare their own plans to comply with the Clean Power Plan, rather than subjecting states to federal plans. The agency is likely to release a draft federal implementation plan this summer so that states have it as resource in developing their own rules.

CPP, Mercury Rules Defended

Speaking at the ECO:nomics conference March 26, Environmental Protection Agency Administrator Gina McCarthy dismissed energy company and state official claims that the proposed Clean Power Plan is illegal under the Clean Air Act. Administrator McCarthy defended the agency's Clean Power Plan and mercury rule, both of which face legal challenges.

Sequestration Waste Rule Litigation

The Carbon Sequestration Council, Southern Co. Services Inc., and the American Petroleum Institute told the U.S. Court of Appeals for the District of Columbia Circuit during oral arguments March 26 that they have standing to challenge the Environmental Protection Agency's final decision to regulate carbon dioxide streams injected into approved Class VI wells under the Safe Drinking Water Act for geologic sequestration as a solid waste not subject to Resource Conservation and Recovery Act hazardous waste regulations. Senior Circuit Judge Harry Edwards questioned their standing because the companies are not using Class VI wells, nor does the record indicate that they are considering using them.

CPP and Keystone Comments

Environmental Protection Agency Administrator Gina McCarthy said March 30 that the Keystone XL pipeline alone would not be a climate disaster, as some project opponents have claimed. She also said that there would not be one climate change solution. The agency raised concerns with the State Department about the pipeline's climate impact in February, saying that it should consider seriously whether the sharp oil price reduction would increase the pipeline's environmental impact and stimulate production in the Canadian oil sands. During the same remarks, Administrator McCarthy said that she does not have a "Plan B" if the U.S. Court of Appeals for the District of Columbia Circuit blocks the agency's Clean Power Plan before it releases a final rule, and said that she does not expect that to happen.

NUCLEAR REGULATORY COMMISSION

Fee Changes

The Nuclear Regulatory Commission released a proposed rule March 23 would increase the annual fees for operating reactors, fuel facilities, and other licensees while reducing licensing rates. Comments are due April 22.

INTERNATIONAL

French Green Roofs

France approved a law March 19 requiring new rooftops in commercial zones to be partially covered in plants or solar panels.

Chinese Coal Plants Close

Beijing's economic planning agency announced March 23 that the city, which averaged more pollution than twice China's national standard last year, will close the last of its four major coal fired power plants next year. The city will close China Huaneng Group Corp.'s 845 MW power plant in 2016, after closing the previous week Guohua Electric Power Corp.'s and Beijing Energy Investment Holding Co.'s plants. A China Datang Corp. plant was closed last year.

Mexican INDC

Mexico submitted March 23 its [Intended Nationally Determined Contribution](#) to the United Nations, becoming the first major developing economy to submit its pledge for post-2020 action on climate change. The country, which has a greenhouse gas emissions footprint of just over one percent of the global total, plans to reach a peak in its emissions by 2026 and then reduce them 22 percent by 2030. The country also pledged to reduce its black carbon emissions in half. Participating nations hope to finalize a global climate accord at the United Nations Framework Convention on Climate Change December summit in Paris.

Norway INDC

Norway submitted March 23 its [Intended Nationally Determined Contribution](#) to the United Nations, pledging to reduce its greenhouse gas emissions by at least 40 percent by 2030 compared to 1990 levels, the same levels the European Union promised. Participating nations hope to finalize a global climate accord at the United Nations Framework Convention on Climate Change December summit in Paris.

Indian Green Bonds

India's Export-Import Bank sold the country's first green dollar bonds in a \$500 million issue of 2.75 percent notes March 24. The country's issuance of overseas securities meeting environmental criteria overseen by the International Capital Market Association could grow to as much as \$1.5 billion a year in the next two to five years. Indian Prime Minister Narendra Modi secured a pledge for unspecified funding to raise solar production to 100 GW by 2022 from about three GW and is hoping to secure additional aid before the climate summit this December in Paris. The New Delhi-based Council on Energy, Environment, and Water projects that the country's solar ambitions will require \$160 billion.

India Solar Trade Case

A World Trade Organization panel announced March 26 that it would determine by late August whether India's solar energy program violated international trade rules. Participants had expected the panel to reach a conclusion before the end of March, after the panel was established last May when the United States claimed that India's Jawaharlal Nehru National Solar Mission unfairly discriminated against imported solar cells and modules in favor of domestic products.

Ex-Im Renewable Funding

U.S. Export-Import Bank President Fred Hochberg said March 26 that renewable energy developers will receive most of a \$1 billion credit line the bank extended to India. Indian regulatory policies, including terms for selling power, are conducive to financing solar- and wind-power projects and make it easier for the bank to ensure repayment. The credit line was negotiated during President Obama's visit with Indian Prime Minister Narendra Modi in January.

EU Waste Reduction

Eurostat published [data](#) March 26 finding that the amount of household and small business waste produced annually per person in the European Union continued its gradual decline in 2013, to an average of 1,060 pounds. The waste declined 1.4 percent from 2012 and 8.7 percent from the 2002 peak year. For the 28 countries in the bloc, 29 percent of domestic and business waste was recycled, 15 percent was composted, 26 percent was incinerated, and 31 percent was landfilled.

EU Naval Emissions

The European Parliament's environment committee approved March 26 a European Union draft regulation that would require ships docking in the bloc's ports to calculate and report their greenhouse gas emissions beginning January 2018. The requirement would apply to emissions from trips made to and from European Union ports by ships of 5,000 gross tons or more, regardless of country of origin. European Union member states ratified the draft regulation in December, and the European Parliament will finalize the measure during a full session April 27-30.

Green Climate Funds

The Green Climate Fund board concluded three days of negotiations in Songdo, South Korea, March 27 by naming seven new bodies to disburse adaptation funds and agreeing to the beginning of a plan on prioritizing potential projects. The meeting ended without agreement on a way to ensure that funding will come in as promised, and little has been received thus far. The 2012 fund was created as part of the United Nations Framework Convention on Climate Change to help raise and distribute funds to poor countries to adapt to climate change impacts.

EU MSR Negotiations

Negotiations begin March 30 between the European Parliament and member states on adjustments to the European Union's emissions trading system in an attempt to prevent a buildup of large greenhouse gas allowance surpluses. There is an ongoing disagreement between bloc countries over when the adjustment mechanism should begin. Under the market stability reserve mechanism, an allowance surplus above 833 million allowances in any year automatically triggers the move of 12 percent of the surplus into a reserve, and if it falls below 400 million allowances, 100 million allowances are released.

STATES

SUNY Zen Building

National Grid announced last month that it will give away two grants totaling \$1 million to the State University of New York Polytechnic Institute for a new 356,000 square foot ZEN building. The funding will help launch a renewable energy testing facility at the university, including a 2 MW solar farm.

MD Wind-Solar Switch

Pioneer Green Energy LLC sent a letter March 20 to Maryland's Eastern Shore commissioners saying that their proposed wind farm, which faced opposition from Senator Barbara Mikulski (D-MD) and House Minority Whip Steny Hoyer (D-MD), will be replaced with a solar energy project. The point of contention was a concern that the turbines could interfere with radar at the Naval Air Station Patuxent River.

FL Solar Expansion

Lakeland, Florida began construction last week on a 6 MW 65-acre solar farm owned and managed by SunEdison; the project joins another 5.3 MW farm already operating in the city, and the city approved two more farms earlier this month that are scheduled to be built later this year.

Potential RGGI Expansion

Regional Greenhouse Gas Initiative Chair Kelly Speakes-Backman said March 23 that RGGI is preparing for the possibility that other states may opt into the nine-state cap and trade program, and has developed a set of principles to guide future discussions with other states. No formal conversations with other states are underway yet.

NJ Grid Resiliency

New Jersey's Board of Public Utilities approved March 24 13 behind the meter energy storage projects totaling almost 9 MW in capacity to increase resiliency primarily at schools, considered critical for emergencies. The Renewable Electric Storage Incentive program requires storage projects to be integrated with renewable sources and they may only be charged by on site fossil fuel generation to provide short duration ancillary grid services.

MD Fracking Curb

Maryland's House and Senate passed measures March 24 to curb fracking in the state. The House of Delegates passed a three year ban on fracking and the Senate approved strong legal standards for drillers. Both measures must clear the other chamber before being sent to Governor Larry Hogan (R) for his signature; the new governor has indicated that he will consider both measures before deciding how to act.

VT Climate Resolution

Vermont's Senate Committee on Natural Resources and Energy considered legislation March 25 to acknowledge humans' role in climate change and address the problem at the state level.

GA Solar

The Georgia Senate unanimously passed the Solar Power Free Market Financing Act (H.B. 57) March 27, sending the measure to Governor Nathan Deal (R). The measure is intended to make it easier and more affordable for state homeowners and small business owners to put solar panels on their rooftops.

SUSTAINABILITY

Apple Long-Term Solar

Speaking to the ECO:nomics conference March 26, Apple Vice President of Environmental Initiatives Lisa Jackson said that the company's February power purchase agreement with First Solar, which committed to spend \$848 million on solar energy over the next 25 years to power some of its California operations, makes good economic sense. The company will spend less for energy produced from the planned utility-scale solar facility over the term of the purchase agreement than it would if it bought the energy commercially.

MISCELLANEOUS

RE Electricity Bill Impact

Nancy Pfund and Anand Chhabara of DBL Investors released a study recently finding that there is no association between a state's renewable energy use and its cost of electricity. The top ten renewable energy using states had an average increase in retail electricity prices of 3.06 percent between 2002 and 2013. The ten least renewable energy using states had a 3.74 percent increase, and the national average was a 3.23 percent increase.

Distributed Wind Potential

The Distributed Wind Energy Association released a [paper](#) March 24 finding that distributed wind power could reach 30 GW and create 150,000 jobs by 2030 with the right policies. Distributed wind projects totaled 842 MW at the end of 2013, and the 30-fold increase will require a long-term extension of the wind investment tax credit, a 40 percent ITC for residential systems, more research and development money for distributed wind, and continued funding of the Rural Energy for America Program.

Environmental Concern Poll

Gallup released a poll March 25 finding that Americans' concern over environmental issues, including air and water pollution, plant and animal extinction, and rainforest loss, has dropped between five and eight percent since last year.

Solar Cities

Environment America released a [report](#) March 26 finding that the top 20 solar power installation cities accounted for 6.5 percent of the country's solar capacity, though they account for only one tenth of a percent of the nation's land area. Los Angeles, San Diego, and Phoenix topped the list for total solar power installations.

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