

ML Strategies Energy and Environment Update: Week of 1/13/2015

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ENERGY AND CLIMATE DEBATE

The 114th Congress and the final two years of the Obama Administration include a full energy and environment agenda.

With some new energy and environment leadership on the relevant Congressional committees, chairs and ranking members are beginning to lay out their priorities for the next two years.

While the Keystone XL pipeline is the first energy issue out of the gate this Congress, Senate Energy and Natural Resources Committee Chair Lisa Murkowski (R-AK) said January 8 that the committee would hold a hearing on the LNG Permitting Certainty and Transparency Act (S. 33) later this month, and that she hopes to find common ground for comprehensive energy legislation this spring. She also hopes to address offshore oil and gas development, an issue she worked on with former Committee Chair Mary Landrieu (D-LA), but on which she disagrees with new Ranking Member Maria Cantwell (D-WA). Senator Murkowski envisions the broad energy package centering on four main areas: strengthening supply, modernizing infrastructure, supporting efficiency, and ensuring federal accountability.

Her other priorities for the committee include crude oil, nuclear waste, public lands, forest management issues, critical minerals and grid security and cybersecurity legislation. Senator Murkowski also hopes to return to the practice of inviting the Secretary of Energy to discuss issues beyond the department's annual budget.

New Senate Environment and Public Works Chair James Inhofe (R-OK) unveiled his priorities January 7 for the 2015 committee agenda, which will include a robust, multi-year highway bill; aggressive oversight of Environmental Protection Agency regulations; an examination of the Endangered Species Act; reform of the Toxic Substances Control Act; and reauthorization of the brownfields program. Senator Inhofe said that top oversight targets include the proposed CO2 emission limits for new, modified, and existing power plants; a proposed Clean Water Act jurisdictional rulemaking; proposed revisions to the ozone standard; the Endangered Species Act; the Nuclear Regulatory Commission, including discussion over developing the Yucca Mountain nuclear repository; and potential forthcoming methane emission regulations for the oil and gas industries. He also plans to undertake oversight efforts focused on the science behind climate change.

House and Senate Republicans spent much of the first week in session introducing energy and environmental legislation, several of which criticize the Environmental Protection Agency's regulatory authority, and many of which will ultimately serve as messaging bills.

Former Senate Environment and Public Works Ranking Member David Vitter (R-LA) led the way, introducing numerous energy and climate bills, including altering the five-year Outer Continental Shelf lease plan (S. 59); forcing approval of the Keystone XL pipeline; prohibiting the United States from regulating CO2 unless China, Russia, and India have similar regulations (S. 66); reorganizing the Nuclear Regulatory Commission; extending the offshore boundaries of several Mid-Atlantic and Southeastern states to three marine leagues from the coast line; blocking the Environmental Protection Agency from vetoing Clean Water Act permits for dredge-and-fill operations if the Army Corps of Engineers has issued or plans to issue permits (S. 54); and expressing the sense of the Senate that a carbon tax is not in the interest of the United States (S. Con. Res. 1).

House Republicans introduced a broad variety of energy measures, including quite a few that were introduced last Congress as well, such as legislation to repeal the United States ban on crude oil exports (H.R. 156), expedite the natural gas approval process (H.R. 161), and overhaul regulatory procedures for federal rulemakings (H.R. 185).

The Obama Administration has a full energy agenda as well, from proposing and finalizing a long list of Environmental Protection Agency regulations to addressing fracking at the Department of Interior, moving forward with efficiency standards at the Department of Energy, and finalizing solar trade issues at the Department of Commerce, and making preparations for the international climate negotiations in Paris at

the end of the year. If the Obama Administration hopes to achieve its recent goal of reducing greenhouse gas emissions by 28 percent from 2005 levels by 2025, it will need to act quickly to allocate sufficient time and resources to that end.

Environmental Protection Agency Regulations: The Environmental Protection Agency had a big year in 2014, releasing, among many other regulations, the Clean Power Plan in June. Administrator Gina McCarthy and other Administration officials continue to reiterate that they will finalize the rule this summer, despite the facts that there are millions of comments to sort through and an ugly legal battle is already underway. The Administration has also repeatedly asserted that the proposed rule is legally defensible, a statement that is certain to be tested as litigation piles up once the rule is final. In the meantime, the Republican Congress is planning efforts to attack the regulation, and other agency efforts as well, via oversight hearings and the appropriations process. The agency **announced** January 8 that it will issue its final greenhouse gas regulations for new, existing, and modified plants in a single package this summer, several weeks after the June 1 deadline for modified and existing plants (111(d)), and months past the January 2015 statutory deadline for new plants (111(b)). Following the receipt of nearly four million comments, the agency also announced that it will soon launch a rulemaking to develop a model federal greenhouse gas reduction plan for existing power plants, which states may use as a guideline when crafting their state implementation plans. The agency will implement the model rule in cases in which states fail to submit their own plans to the agency.

Energy Tax Reform: Just before the end of the year, President Obama and Senate Majority Leader McConnell identified trade, long term infrastructure financing, and the possibility of tax reform as areas of potential agreement. Senate Finance Committee Chair Orrin Hatch (R-UT) intends to pursue broad tax reform before considering another short-term extension, and Ranking Member Ron Wyden (D-OR) plans to work with him to find compromise over which incentives to keep, improve, and discard, while he also hopes to encourage new energy technology via comprehensive tax reform or a continuation of the production tax credit or other renewable energy and energy efficiency tax provisions. Before the negotiations closed last year, there was some discussion of a plan to reinstate the wind production tax credit and institute a plan to phase it out by 2017. The wind industry has previously floated more long-term phase-out plans, but credit opponents are concerned about the hefty price tag. Conservative groups are painting any revival of the PTC as support for President Obama's clean energy agenda, potentially swaying Republican swing votes.

Keystone XL: New Senate Majority Leader Mitch McConnell (R-KY) vowed late last year to make the Keystone XL pipeline the first order of business for the upper chamber, and his colleagues are already moving quickly on the issue. After the Senate Energy and Natural Resources Committee called off a January 7 hearing to consider **legislation** approving the Keystone XL pipeline, it approved similar legislation (S. 1) from Senators John Hoeven (R-ND) and Joe Manchin (D-WV) the following day, setting the stage for the upper chamber to take its first Keystone votes on January 12. Senate Democrats are expected to introduce several amendments to the bill, but only a few will ultimately vote for the measure – how many that few actually is remains a question, with many predicting that there are 63 votes for the bill. Debate on amendments alone could last several weeks, and may include, among other amendments, language from Senator Bernie Sanders (I-VT) stating a **sense of Congress** that climate change is real and caused by human activities; measures barring the export of oil and refined products from the pipeline; a provision that would tie the project to increased clean energy investment; and energy efficiency language. If the upper chamber does approve the legislation and the president vetoes it, both of which are almost certain to occur, obtaining the necessary congressional votes to override the presidential veto will prove to be the truly difficult battle. The House, which has passed several pro-Keystone measures in the past couple of years, passed January 9 legislation (H.R. 3) to immediately approve the pipeline. President Obama last month expressed skepticism over the project's economic benefits, and the White House issued a formal **veto threat** of H.R. 3 January 7. The president also said just before the new year that he expects to veto legislation this year that would block or impede his climate and environmental policies. In the meantime, the Nebraska Supreme Court overturned January 9 a lower court ruling, upholding a state law that had allowed Governor Dave Heineman (R-NE) to approve the pipeline's route inside the state. Though the State Department has not confirmed a timeline for releasing a final rule, it will now resume its almost-complete review of the pipeline, which it halted in April amid uncertainty about the Nebraska case. It could take weeks or months for the Administration to determine whether building the pipeline would be in the best interest of the United States.

MISCELLANEOUS

RE Investment Up

Bloomberg New Energy Finance released a report January 9 finding that clean energy investment rose for the first time in three years in 2014, overcoming an oil price slump. New funds for biofuels, wind, solar, and other clean energy technologies gained 16 percent to \$310 billion last year. Contributing factors include a 32 percent expansion in China's renewable energy commitment, a record \$19.4 billion committed to offshore wind projects years in the making, increased investment in electric vehicles, particularly for Tesla Motors, just before inexpensive gasoline prices reduced that market's forecast, and a surge in solar investment.

GM EVs

General Motors Company plans later this year to introduce a next-generation Chevrolet Volt with a new exterior design and room for five passengers. The redesigned 2016 Volt will go 50 miles on a full charge, 30 percent farther than the current model. The company will launch in 2017 a \$30,000 all-electric vehicle called the Chevrolet Bolt, which will be capable of driving 200 miles on a single charge, putting it in direct competition with Tesla's Model 3.

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