



David Leiter [DJLeiter@mlstrategies.com](mailto:DJLeiter@mlstrategies.com)  
Sarah Litke [SLitke@mlstrategies.com](mailto:SLitke@mlstrategies.com)  
Jean Cornell [JKECornell@mlstrategies.com](mailto:JKECornell@mlstrategies.com)  
Bryan Stockton [BStockton@mlstrategies.com](mailto:BStockton@mlstrategies.com)  
Jordan Collins [JMCollins@mlstrategies.com](mailto:JMCollins@mlstrategies.com)  
Neal Martin [RNMartin@mlstrategies.com](mailto: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](http://www.mlstrategies.com)

## ENERGY & ENVIRONMENT UPDATE October 28, 2013

### ENERGY AND CLIMATE DEBATE

Following the House's approval of the Water Resources Reform and Development Act last week, three conference committees will spend this week attempting negotiate compromise language. The Senate passed its counterpart in May. If a compromise agreement is met, it will be the first time since 2007 that a water infrastructure bill has been passed. The White House released a statement of administration policy on Wednesday, saying it will recommend that the president sign the final bill.

Two other conference committees will hold their first meetings on Wednesday. The Farm Bill Conference Committee will begin trying to resolve differences surrounding the House- and Senate-passed versions of the Farm Bill. Funding for food stamps and aid to farm producers remain the major points of contention. The same day, the FY14 budget conference committee will meet.

In the Senate, a third version of Shaheen-Portman (currently [S. 1392](#) and previously [S. 761](#)) is nearing introduction. The first two versions were overwhelmed by germane and non-germane amendments. Potential amendments for the third version include:

- An amendment by Senators Michael Bennet (D-CO) and Kelly Ayotte (R-NH) on energy savings measurements by individual users in multiuse buildings;
- An amendment by Senators Tom Coburn (R-OK) and Tom Carper (D-DE) on thermal efficiency;
- An amendment by Senators Jeff Sessions (R-AL) and Mark Pryor (D-AR) promoting third-party product certification programs;
- An amendment by Senators Mark Pryor (D-AR), Mary Landrieu (D-LA), and Roger Wicker (R-MS) protecting certain materials from General Service Administration building certifications disfavor;
- An amendment by Senators Mark Pryor (D-AR) and John Hoeven (R-ND) on grid-enabled water heaters;

- An amendment by Senators Mark Udall (D-CO) and Jim Risch (R-ID) on federal data center energy consumption;
- An amendment by Senators John Hoeven (R-ND) and Joe Manchin (D-WV) on federal building fossil fuel usage; and
- An amendment by Senators Michael Bennet (D-CO) and Johnny Isakson (R-GA) on energy efficiency in home mortgages.

While the current vote tally is uncertain, many agree the 60-vote threshold is needed to spur Senate Majority Leader Harry Reid (D-NV) to move the bill. House Energy and Commerce Chairman Fred Upton (R-MI) said October 25 that he would take up Shaheen-Portman if the Senate passed the bill soon.

## CONGRESS

### **Cramer Asks for ND Listening Session**

An October 18 [letter](#) from Representative Kevin Cramer (R-ND) to Environmental Protection Agency Administrator Gina McCarthy urged the agency to hold a listening session for upcoming greenhouse gas rules for existing power plants in North Dakota. He said that the state is a good location for a meeting because it is close to coal mines and power plants.

### **Vitter Places Hold on Robinson**

Senate Environment and Public Works Ranking Member David Vitter (R-LA) placed a hold on Elizabeth Robinson, President Obama's nominee to be Undersecretary of Energy October 21. Senator Vitter expressed concern about Robinson's involvement in a delayed NASA project in his home state. Robinson currently serves as NASA's Chief Financial Officer. Senator Vitter is also concerned about NASA senior leadership's use of personal emails to conduct official business.

### **CRS Report on Carbon Capture**

[Carbon Capture: A Technology Assessment](#) was released by the Congressional Research Service on October 21. The report examined the technological components of the first part of the carbon capture and sequestration process. It promoted efforts to reduce costs so the technologies could better enter the market.

### **CRS Report on Fracking Legal Issues**

The Congressional Research Service, in its October 22 report [Hydraulic Fracturing: Selected Legal Issues](#), reviewed federal and state legal issues faced by the fracking industry. Federal laws examined include the Clean Air Act, the Clean Water Act, National Environmental Policy Act, Safe Drinking Water Act, and the Toxic Substances Control Act. It also discussed state preemption of municipal regulations.

### **ND Senators on Coal, CCS**

In a video message to an October 22 Energy and Environmental Research Center event, Senators Heidi Heitkamp (D-ND) and John Hoeven (R-ND) said the Environmental Protection Agency should fully consider the benefits of coal production to the U.S. The two said other states should model North Dakota's ability to combine traditional and renewable sources in its energy policies. Senator Heitkamp praised carbon capture and storage technology but said it is not commercially viable.

### **NJ Representatives Push Grid Investment**

Representatives Rush Holt (D-NJ), Leonard Lance (R-NJ), Frank Pallone (D-NJ), and Donald Payne (D-NJ) held a press conference October 22 with Representative Yvette Clarke (D-NY), Assistant Energy Secretary Patricia Hoffman, and PSEG President Ralph LaRossa in Newark, NJ to advocate for investment in grid technologies to be more resilient in the face of storms like Hurricane Sandy.

### **RIN Market Manipulation Letter Sent to CFTC**

Thirteen corn-belt House members sent a letter to Commodity Futures Trading Commission Chairman Gary Gensler on October 22, asking the agency to examine whether market manipulation was the cause of renewable identification number price spikes. The members suggested that this year's price volatility in the ethanol market was due to trading outside normal supply-and-demand forces.

### **House E&C Letter on Agency Climate Change Action**

House Energy and Commerce Committee members Fred Upton (R-MI), Joe Barton (R-TX), Marsha Blackburn (R-TN), Steve Scalise (R-LA), and Ed Whitefield (R-KY) sent [letters](#) to eleven agencies and the Office of Management and Budget on October 24, asking them to report on climate change research and programs. The agencies had been asked to participate in a September hearing, but only Secretary of Energy Ernest Moniz and Environmental Protection Agency Administrator Gina McCarthy participated. The [letter](#) to OMB asked the office to release information on climate change expenditures.

### **Letter on Yucca Mountain Licensing**

An October 24 [letter](#) from Senators Jeff Sessions (R-AL) urged Nuclear Regulatory Commission Chairman Allison Macfarlane to expeditiously complete the Safety Evaluation Reports aspect of the licensing for the Yucca Mountain spent fuel repository. The letter said the August 13 decision by the U.S. Court of Appeals for the District of Columbia Circuit compelled the agency to reach a decision on the proposal.

### **Terry Letter on Keystone XL**

Representative Lee Terry (R-NE) sent a letter to President Obama October 24, asking for a dialogue between Democrats and Republicans on the Keystone XL pipeline. He said the project would support energy security, job creation, and national security. He asked the administration to respond to a July 31 letter from House Energy and Commerce Committee members on the pipeline.

### **Sessions Letter on AFVs**

Senate Budget Ranking Member Jeff Sessions (R-AL) sent letters to the Departments of Agriculture, Homeland Security, and [Interior](#), along with the Air Force and the U.S. Army Corps of Engineers, on October 25. He questioned whether requirements to purchase alternative fuel vehicles are too costly.

### **Letter on EPA Diesel Fuel Fracking Guidance**

In an October 25 [letter](#) to Office of Management and Budget Director Sylvia Burwell, House Energy and Commerce Ranking Member Henry Waxman (D-CA) and Subcommittee on Oversight and Investigations Ranking Member Diana DeGette (D-CO) urged the office to release Environmental Protection Agency guidance on using diesel fuel in fracking. The pair said the use of diesel fuel should be governed by the Safe Drinking Water Act; the practice of fracking was exempted from the act in 2005.

### **Bills Introduced**

- On October 22, Representatives Fred Upton (R-MI) and Gene Green (D-TX) introduced [H.R. 3301](#), a bill to streamline the cross-border energy infrastructure project permitting process. The bill would require the government to approve or deny a project within 120 days of the submission of the application, and would apply to electricity, natural gas, and oil projects.
- The same day, Representative Steve Israel (D-TX) introduced [H.R. 3307](#), the Solar Villages Initiative Act. The bill would authorize microenterprise assistance for renewable energy projects in developing projects.

### **Upcoming Hearings**

- On October 29, the House Energy and Commerce Subcommittee on Energy and Power will hold a hearing to examine [H.R. 3301](#), the North American Energy Infrastructure Act.
- The same day, the House Energy and Commerce Subcommittee on Oversight and Investigations will hold a hearing on the impact of Environmental Protection Agency regulations on communities supported by coal production.
- The same day, the House Natural Resources Subcommittee on Water and Power will hold a hearing on water and hydropower supplies and storage facilities.
- The same day, the House Science, Space, and Technology Subcommittees on Energy and Environment will hold a joint subcommittee hearing on Environmental Protection Agency power plant regulations.
- On October 30, the House Science, Space, and Technology Subcommittee on Energy will hold a hearing to review the science mission of the Department of Energy.

## **ADMINISTRATION**

### **OMB Meetings on RFS**

The Office of Management and Budget had meetings with industry groups on 2014 renewable volume obligations on October 22, 23, and 25. Members from the oil, gas, and renewable fuels industry participated in the meetings. The Renewable Fuel Standard final rule is expected shortly.

### **WRDA Statement of Administration Policy**

The Office of Management and Budget released a [statement](#) of administration policy the Water Resources Reform and Development Act of 2013 (H.R. 3080) October 23. While the administration supports the bill, it is concerned about environmental streamlining efforts that could negatively impact science-based decision making and the authorization of projects that the administration has not supported because of a marginal return on investment.

### **White House to Sponsor Pakistani Energy Trade Mission**

The White House announced October 23 that it would sponsor a Pakistani energy trade delegation trip to Houston in November. The purpose of the trip is to encourage Pakistan to diversify its energy supply through domestic natural gas, domestic renewable energy, and imported liquefied natural gas.

### **NSF Announces SBIR/STTR Phase I Grants**

The National Science Foundation announced October 24 a Small Business Innovation Research and Small Business Technology Transfer program [funding opportunity](#). Phase I grants are \$150,000 for six months. SBIR applications are due December 2, and STTR applications are due December 4.

### **GSA Green Building Systems Recommendations**

The General Services Administration suggested October 25 that federal government building projects be certified by either the 2009 Green Building Council Leadership in Energy and Environmental Design system or the 2010 Green Building Initiative Green Globes system. The two systems both measure energy use, greenhouse gas emissions, and water use reductions.

#### **USTDA Announces Biomass, WTE RTM**

From November 3 to 14, the U.S. Trade and Development Agency will support a biomass and waste-to-energy reverse trade mission to Baltimore, Sacramento, and Washington, DC. 15 officials and project developers from Indonesia, the Philippines, and Thailand will participate.

### **DEPARTMENT OF AGRICULTURE**

#### **Funding Opportunity for Commercial Advanced Biofuel Plants**

The Department of Agriculture announced \$181 million in available funds for commercial advanced biofuel facilities last week. Administered as Biorefinery Assistance Program loan guarantees, the funding can be used to support retrofits or new construction. Applications are due January 30.

#### **\$960 Million for Rural Electric Development**

The Department of Agriculture awarded \$960 million in loan guarantees to 32 [projects](#) addressing rural electric utility systems in 23 states October 24. Of that total, \$14.3 million will support smart grid technology.

### **DEPARTMENT OF ENERGY**

#### **ARPA-E Awards \$27 Million to Grid Projects**

The Advanced Research Projects Agency-Energy [awarded](#) October 21 \$27 million to 14 grid technology projects. The projects are designed to improve efficiency and replace aging components, mainly by developing wide-bandgap semiconductors. Acting Director Cheryl Martin praised the awardees, saying innovation is needed to improve how the country uses and converts electricity.

#### **EIA Reports 2012 Emissions**

The Energy Information Administration [reported](#) October 21 that U.S. energy-related carbon emissions fell 3.8 percent from 2011 to 2012. Emissions are at their lowest level since 1994, and the decrease was the second largest percentage since 1990. The report linked the decrease in emissions with a decrease in energy consumption.

#### **Report Identifies \$33 Billion in Annual Energy Savings**

Lawrence Berkley National Laboratory released [\*Energy Impacts of Envelope Tightening and Mechanical Ventilation for the U.S. Residential Sector\*](#) October 21, finding that airtightness upgrades could yield up to \$33 billion in annual savings. The report identified the hottest and coldest climates as the areas with the biggest potential for energy savings and recommended that policymakers identify a uniform standard for tightening homes.

#### **DOE Proposes AEDMs Expansion**

The Department of Energy [proposed](#) October 22 to expand the use of alternative efficiency determination methods, which are computer modeling or mathematical tools that predict the energy consumption of a product without physical testing. The proposal would apply to commercial heating, ventilating, air-conditioning, water heating, and refrigeration equipment. The agency will accept comments until November 21.

### **\$60 Million Awarded to Solar Projects**

The Energy Department [awarded](#) October 22 \$60 million to several projects aimed at promoting solar energy through its SunShot Initiative. The projects address topics such as education, integration, reliability, research, and technology. Secretary of Energy Ernest Moniz noted that the awards are driven by the president's Climate Action Plan, which promotes responsible development of energy resources.

### **2012 Offshore Wind Energy Market Report Released**

The Department of Energy released the third annual [U.S. Offshore Wind Market and Economic Analysis](#), which tracked the progress of the offshore wind market in 2012, October 23. The report found that in 2012, 3,824 megawatts of capacity reached an advanced stage of development, stemming from 11 commercial-scale projects. Additionally, two commercial lease auctions for federal wind energy areas were held.

### **Moniz on Congress and Climate Change**

Addressing an October 24 Center for Strategic and International Studies event, Energy Secretary Ernest Moniz said that he believes Congress has moved past the question of whether or not to act on climate change to what it can do to address it. He noted that the agency would continue to advance fossil energy and energy efficiency items such as the final loan guarantee program solicitation for fossil fuel emission reduction projects and electric motor efficiency standards.

## **DEPARTMENT OF INTERIOR**

### **First BLM Solar Lease Sale Held**

The Bureau of Land Management held its first competitive lease sale for solar projects on federal land October 24. While nine preliminary applications were submitted for the area, no industry bids were made on the 3,705 acres of solar energy zones in Colorado.

### **\$162 Million Awarded to Resilience Projects**

The Department of Interior awarded \$162 million to 45 [projects](#) aimed at protecting coastal communities from storms October 24. The projects, chiefly in the Northeast and Mid-Atlantic regions, range from restoring beaches, to rebuilding shorelines, to researching storm surge impacts.

## **DEPARTMENT OF STATE**

### **Light Joins State**

The Center for American Progress announced October 28 that Director for International Climate Policy Andrew Light has left the organization to serve on the Department of State's climate negotiating team. The team is led by Special Envoy Todd Stern.

### **State to Cosponsor DC Greening Embassies Forum Event**

The DC Greening Embassies Forum will hold an event, "Clean Energy and Efficiency in DC and Around the Globe," at the Department of State on October 29. Secretary of State John Kerry will keynote the event. The agenda includes sessions on energy efficiency and management policies and best practices.

## **DEPARTMENT OF TREASURY**



### **Section 45J PTC Guidance Released**

The Internal Revenue Service released October 24 new guidance on the as-yet unused Section 45J production tax credit for new nuclear placed in service before 2021. The guidance is attached.

### **Section 48A Advanced Coal Project Program Announcement**

In an October 25 announcement, the Internal Revenue Service announced it had allocated STCE Holdings LLC \$324 million and SCS Energy California LLC \$334.5 million for the 2012-2013 round under the Section 48A qualifying advanced coal project program. The program is designed to offset 30 percent of the cost of qualified investments for clean coal projects.

## **ENVIRONMENTAL PROTECTION AGENCY**

### **Princiotta on Global Warming, Technology**

Addressing an October 22 Energy and Environmental Research Center conference, National Risk Management research Laboratory Air Pollution Prevention and Control Division Director Frank Princiotta said that a 3.6 degree increase of global temperatures is likely. He also said that technological innovations need to be made immediately to address climate change.

### **Groups Urge Biomass Case Rehearing Extension**

The American Forest and Paper Association urged the U.S. Court of Appeals for the District of Columbia Circuit October 22 to extend the deadline to seek a rehearing of a case involving biomass greenhouse gas permitting requirements. The groups said the court should extend the case filed by the Center for Biological Diversity against the Environmental Protection Agency until after the Supreme Court issues a ruling on greenhouse gas regulations.

### **2012 GHG Emissions Data Released**

As part of its Greenhouse Gas Reporting Program, the Environmental Protection Agency released October 23 2012 carbon emissions [data](#). The agency found that power plant emissions fell ten percent from 2010 to 2012, and it links the decrease to the major shift from coal to natural gas. The data was collected from 8,000 oil and gas production, power plant, steel and iron mill, and landfill facilities.

### **Court Denies Sewage Sludge Incinerator Case Rehearing**

In response to requests by the Sierra Club, the U.S. Court of Appeals for the District of Columbia Circuit said October 24 it would not rehear a case involving sewage sludge incinerator emissions standards. The Association of Clean Water Agencies filed a suit against the agency over a decision to regulate the incinerators as solid waste incinerators rather than hazardous air pollutants. The court ruled in August that the agency should review the rule, but the regulations were left in place until the review is complete.

### **MATS Suits Consolidated, Oral Arguments Scheduled**

The U.S. Court of Appeals for the District of Columbia Circuit announced October 25 that it had consolidated two cases involving the Mercury and Air Toxics Standards for power plants. Oral arguments will be held December 10. White Stallion Energy Center LLC and the Utility Air Regulatory Group had filed suits against the Environmental Protection Agency.

## **NUCLEAR REGULATORY COMMISSION**

### **NRC Reschedules Waste Confidence Meetings**

The Nuclear Regulatory Commission rescheduled October 21 three waste confidence hearings that were postponed due to the shutdown. The meetings will be held November 12 in Oak Brook, IL; November 18 in Carlsbad, CA; and November 20 in San Luis Obispo, CA. The Perrysburg, OH and the Minnetonka, MN have not been rescheduled, but officials will announce dates this week.

### **Waste Confidence Public Comment Period Extended**

The Nuclear Regulatory Commission announced October 28 that it would accept public comments on the Waste Confidence rule proposal through November 27. The original deadline was November 20. The agency cited the government shutdown as the reason for the extension.

## **INTERNATIONAL**

### **Figueres, Stern on 2014, 2015 Agreements**

United Nations Framework Convention on Climate Change Executive Secretary Christiana Figueres, at an October 21 Chatham House conference in London, said that joint efforts on climate change in 2014 will be the foundation for an international agreement in 2015. Meetings like the Warsaw Conference of Parties in November will pave the way for the 21<sup>st</sup> conference in Paris in December 2015. Specifically, the Clean Energy Ministerial meeting in South Korea in May will be important because it will allow countries to trade best practices. The following day, U.S. Special Envoy for Climate Change Todd Stern advocated for a flexible framework for the 2015 agreement, saying strict compliance would hurt ambition to fulfill the agreement.

## **STATES**

### **WGA ITC Letter**

The Western Governors Association urged Congress October 21 to change the qualifying requirements for the renewable energy investment tax credit. The group wants the ITC to include projects that have begun construction by the December 31, 2016 expiration date, instead of the current requirement in which projects must generate electricity by the expiration date. The WGA argued that the change would help reduce risk and garner more private investment.

### **MI Crafting New Fracking Rules**

An October 22 [press release](#) from the Michigan Department of Environmental Quality announced that the agency is creating new fracking regulations. The changes will focus on water withdrawal assessment and monitoring, water quality sampling, monitoring and reporting, and chemical additive disclosure.

### **8 Governors Sign EV MOU**

The governors of CA, CT, MA, MD, NY, OR, RI, and VT signed October 24 a [memorandum of understanding](#) to promote electric and hydrogen-powered cars. Citing the need to reduce greenhouse gas emissions and improve energy diversity, the goal is to have 3.3 million zero-emission vehicles by 2025.

### **NYC LED Retrofit Plan Announced**

New York City Mayor Michael Bloomberg (I) and Transportation Commissioner Janette Sadik-Khan unveiled a plan October 24 to retrofit the city's 250,000 streetlights with LED technology by 2017. Savings are expected to total \$14 million annually, with \$6 million from energy cost savings and \$8 million from maintenance costs. The project is spurred by a \$10 million grant.



## MISCELLANEOUS

### **Chamber of Commerce on Energy Regulations**

At an October 21 Christian Science Monitor breakfast, U.S. Chamber of Commerce President Tom Donahue urged Congress to remove regulatory barriers to energy exploration and development. He argued that the U.S. needs hydrocarbons, especially for jobs, but he also pointed out that the Chamber has supported over 300 green projects and legislation. Chamber Vice President of Government Affairs Bruce Josten said that the group hopes Shaheen-Portman moves through the Senate. Donohue and Josten both voiced concern over the Environmental Protection Agency's greenhouse gas regulations and argued that technological advances, not strict regulation regimes, best address greenhouse gases.

### **ACORE Midwestern Renewable Energy Report Released**

The American Council on Renewable Energy released [\*Renewable Energy in the 50 States: Midwestern Region\*](#) October 21, tracking renewable energy development, investment, markets, and policies in IA, IL, IN, KS, MI, MN, MO, ND, NE, OH, SD, and WI. It is the second part of the group's annual report on the U.S. renewable energy sector.