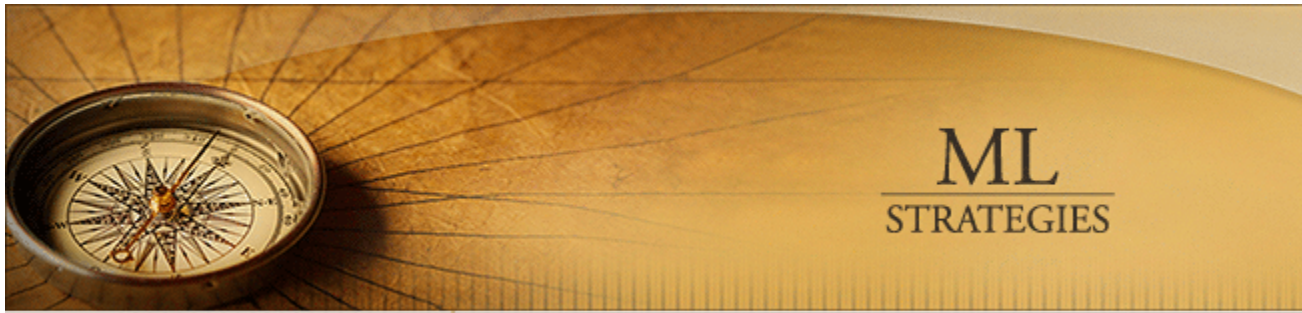




ML Strategies Update

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, DC 20004 USA
202 434 7300
202 434 7400 fax
www.mlstrategies.com

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

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Energy & Environment Update

ENERGY AND CLIMATE DEBATE

The Environmental Protection Agency will issue June 2 proposed CO2 regulations for existing power plants under Section 111(d) of the Clean Air Act. While the agency and the Office of Management and Budget, which is currently conducting an interagency review of the proposed rule, remain hushed about the substance of the regulation, we know some details about the proposal, and theories about others continue to arise.

As a whole, the forthcoming proposed regulations would mandate significant CO2 reductions while allowing power plant emissions to be offset with enhancements elsewhere in the system. As a result, the proposed regulations are splitting the electric utility industry's typically unified opposition to new Environmental Protection Agency limits. For some, the rules could support nuclear reactors and [natural gas](#), enhance renewable energy investments, or award early action, while [others](#) view the upcoming rule as the Obama Administration's latest salve in a "war on coal" that would result in jobs lost and reliable energy reduced.

The rule would offer broad leeway to states on how to reduce emissions, as the states would submit State Implementation Plans to the Environmental Protection Agency for approval. If a state were unable to complete a plan that brings the state into compliance with the established standard, the agency would assist in its development. States could adopt renewable portfolio standards, [energy efficiency](#) programs, [carbon](#) pricing systems, or other creative approaches as they work to achieve the standard using an approach that best works for the state or region.

Though details are unconfirmed, we expect that the rule may include a 25 percent emission reduction requirement, perhaps by 2030, with a long phase-in for the most rigorous reductions. The baseline year is still unknown. The proposed rule may endorse a higher-than-plant-level reduction path. It is also likely to include a request for information from utilities and state officials regarding "best system of emission reduction" guidance.

Environmental Protection Agency Administrator Gina McCarthy said May 22 that the agency has already received about 10,000 comments on the proposed rule, and she looks forward to continuing an intense dialogue on the forthcoming proposal. She has a history of working with a broad constituency to craft regulation that addresses a complex situation, often negotiating with industry representatives, environmental groups, state and federal government agencies, members of Congress, and others to finalize not only a strong and legally defensible rule, but also an achievable solution.

In addition to significant early input from environmental and industry representatives, Congress is already discussing the forthcoming rule. A bipartisan group of 47 senators [asked](#) the agency May 22 to provide a 120-day comment period for the proposed rule in order for parties to have sufficient time to review it. Meanwhile, six Republican senators sent a separate letter last week requesting that the agency not propose the rule at all. Seven Democratic senators [asked](#) President Obama May 21 to rethink the rule, recommending that the agency focus on regulations that do not cause difficulties for the coal industry while still encouraging energy solutions that reduce the nation's carbon footprint. More than two-dozen Democratic lawmakers led by Senate Environment and Public Works Chair Barbara Boxer (D-CA), Senators Sheldon Whitehouse (D-RI) and Ed Markey (D-MA), and Representative Henry Waxman (D-CA) held a "Sound the Alarm" rally May 21 to express support for addressing climate change. Representative John Delaney (D-MD) circulated draft [legislation](#) last week that would allow states to impose a carbon tax to comply with the upcoming rules.

After a difficult few weeks for legislation in the Senate – from the chamber's failure to move the Shaheen Portman energy efficiency measure (S. 2280) to similar difficulty with the tax extenders package (H.R. 3474) – the Senate voted, 91-7, last week to pass the Water Resources Reform and Development Act (H.R. 3080) conference report, which had sailed through the House just two days prior. President Obama is expected to sign the measure, the first new water resources bill in seven years, into law.

Despite a supportive letter last week from 152 associations and organizations, the tax extenders debate has stalled on the Senate floor, while the House continues to carefully consider each provision, and a conference may not take place until the lame duck session. Energy efficiency legislation faces a similar future.

The Senate is in recess this week, but the House continues its consideration of fiscal year 2015 appropriations. Prior to recessing last week, the Senate Appropriations Committee approved its allocations for the twelve annual spending bills, and passed the first two – Agriculture and Military Construction-Veterans Affairs – in anticipation of them being taken up on the Senate floor in June. Senate Appropriations Committee Chair Barbara Mikulski (D-MD) said last week that the full committee will meet June 5 to mark up the annual Transportation, Housing and Urban Development, and Commerce-Justice-Science Bills, as the committee works to clear four to six of the twelve bills by mid-June. Senator Mikulski has said that her goal is for the panel to complete markup of all of the bills by July 10. The committee has allocated \$34.2 billion for Energy and Water and \$29.4 billion for Interior-Environment.

House Appropriations Committee Chair Hal Rogers (R-KY) plans for the committee to move at least three more spending bills this week. The House also will take to the floor the annual spending bill for Commerce-Justice-Science programs (H.R. 4660). Chairman Rogers plans to finish markups of the twelve bills by June 26, when the House departs for the Independence Day recess. After that, he hopes the House will pass all of the measures by the start of the August recess.

CONGRESS

FERC Nominations Considered

The Senate Energy and Natural Resources Committee held a hearing May 20 to consider the nominations of Norman Bay to serve as Federal Energy Regulatory Commission Chairman and Cheryl LaFleur, who has been serving as acting chair, as commissioner. Several Republican senators have expressed skepticism over Mr. Bay's nomination, suggesting that Ms. LaFleur should retain her position, and Mr. Bay should serve as commissioner instead. Committee Chair Mary Landrieu (D-LA) said that the committee would wait to vote on the nominations until senators have time to review responses to their forthcoming written questions.

NDAA Energy Provisions

The House approved the National Defense Authorization Act for Fiscal Year 2015 (H.R. 4435) May 22. The measure permits the Department of Defense to produce or procure biofuels if the cost is equivalent to conventional fuels or if the automatic budget cuts under the Budget Control Act are no longer in effect. The language provides an exception for biofuel test and certification and research and development. The Senate Armed Services Committee marked up its version of the measure last week, and included authorization for department programs establishing infrastructure for natural gas and other alternative fuel vehicles and established an office to manage research and development of radios and other equipment powered by solar and other renewable sources.

Upcoming Hearings

The House Energy and Commerce Subcommittee on Energy and Power will mark up the Promoting New Manufacturing Act May 28.

The House Science Committee will hold a hearing May 29 on the Intergovernmental Panel on Climate Change's process.

The House Energy and Commerce Subcommittee on Oversight and Investigations will hold a hearing May 30 on the Department of Energy's loan programs.

DEPARTMENT OF COMMERCE

Solar Trade Case Delay

The Department of Commerce delayed last week its preliminary determination in SolarWorld's solar trade complaint against China and Taiwan. Preliminary levels for anti-dumping duties were due June 11, but the complicated investigation necessitates an additional 43 days. The agency will issue preliminary findings July 25.

DEPARTMENT OF ENERGY

All Technologies Needed to Transition Energy Economy

Secretary of Energy Ernest Moniz said May 19 that addressing climate change will require a lengthy transition to a low carbon economy that employs all possible technologies. He reiterated that carbon capture and sequestration technologies are already feasible and have been successfully utilized, and said that additional agency funding and research could reduce the costs of the technologies to make them competitive. Secretary Moniz told the Alliance to Save Energy May 21 that energy efficiency will play a critical role in addressing climate change.

NEPA Standing Clarified

The U.S. Court of Appeals for the Sixth Circuit found May 21 that the Department of Energy's National Environmental Policy Act review of a proposed cellulosic ethanol plant in Michigan was satisfactory. The opinion overturned a lower court's decision to dismiss the suit on standing grounds.

DEPARTMENT OF INTERIOR

NY Offshore Wind

The Bureau of Ocean Energy Management [announced](#) May 27 that it is moving forward with wind energy planning efforts on the Outer Continental Shelf offshore New York. The bureau published a Call for Information and Nominations to obtain nominations from companies interested in commercial wind energy leases in an area eleven nautical miles south of Long Beach, New York. The bureau is also seeking public input on site conditions, resources, and existing of the area that would be relevant to the authorization process.

DEPARTMENT OF STATE

Climate Security Risks

Speaking May 19 at Boston College's graduation, Secretary of State John Kerry said that climate change poses immediate global security risks, but that solutions exist to address them. He said that working toward climate solutions could spur technological innovations and a trillion dollar industry, but that greater political will is needed to act.

DEPARTMENT OF TREASURY

Inflation Adjustment Factors Published

The Internal Revenue Service published Notice 2014-36 May 27, providing inflation adjustment factors and reference prices for this year for the renewable electricity production credit, the refined coal production credit, and the Indian coal production credit.

Ethanol Depreciation Recovery

The Internal Revenue Service determined in a new revenue ruling May 20 that tangible assets used to convert corn to fuel-grade ethanol qualify as a biomass asset class for the purpose of determining their applicable depreciation recovery period. Such property has a seven to ten year depreciation period, and the ruling applies to property placed in service after June 9.

ENVIRONMENTAL PROTECTION AGENCY

Methane Emissions Data Needed

Environmental Protection Agency Office of Air and Radiation Climate Change Division Director Paul Gunning said May 20 that the agency needs a better understanding of methane emissions from the oil and natural gas industry before it can determine whether it needs to alter its estimates of national methane emissions.

IL CCS Permissions Sought

ADM is seeking federal permission to install a second carbon storage well at its ethanol plant in Illinois. The Environmental Protection Agency is responsible for analyzing the permit to ensure that the captured CO2 does not infiltrate the groundwater.

Secondary Acid Rain Regs Delay Upheld

The U.S. Court of Appeals for the District of Columbia upheld May 27 the Environmental Protection Agency's decision to wait to issue secondary air quality standards for nitrogen oxides and sulfur oxides. When the agency set its primary standard in 2012, it said that it needed to undertake additional studies before it could set the secondary acid rain standard.

Clean Cookstove Research

Environmental Protection Agency Administrator Gina McCarthy announced grant awards May 27 to six universities to research cleaner technologies and fuels for cooking, lighting, and heating homes. The World Health Organization estimates that exposure to smoke from traditional cookstoves and open pit fires leads to 4.3 million premature deaths each year.

FEDERAL ENERGY REGULATORY COMMISSION

Order 745 Vacated

The U.S. Court of Appeals for the District of Columbia Circuit struck down a Federal Energy Regulatory Commission initiative May 23 designed to reduce energy consumption that compensated large industrial and commercial customers for using less electricity. The ruling throws into question the future of a broadly used program begun in 2011 in which third-party aggregators provide demand-response services to regional grid operators in wholesale electricity markets across the country and share the savings with large electricity users. The utility industry challenged Order 745, arguing that the commission had exceeded its authority under the Federal Power Act by encroaching on retail electricity markets.

Joint FERC, NRC Meeting

The Federal Energy Regulatory Commission and Nuclear Regulatory Commission will hold a joint meeting May 28 to discuss grid reliability, license renewals for nuclear power plants, and dam safety.

GOVERNMENT ACCOUNTABILITY OFFICE

Arctic Council Joint Strategy

The Government Accountability Office issued a [report](#) May 19 recommending that the State Department and other federal agencies develop a joint U.S. strategy for participation in the Arctic Council. The U.S. will assume chairmanship of the council in 2015 for a two-year term.

INTERNATIONAL

Vancouver Requests Climate Considerations

Vancouver [asked](#) the National Energy Board May 16 to factor in the economic impacts of climate change when determining whether to approve Kinder Morgan's Trans Mountain pipeline expansion proposal. The proposal would move 890,000 barrels of oil per day from the Alberta oil sands to a Vancouver suburb.

Japanese Vehicle Efficiency Program

The Japanese government and eight of the country's automakers announced the Research Association of Automotive Internal Combustion Engines May 19, a joint program to create more fuel-efficient and cleaner conventional engines.

Solarworld Considers Chinese Espionage Claim

Solarworld CEO Frank Asbeck said May 19 that the company is considering filing damage claims after its U.S. unit allegedly became the target of Chinese economic espionage. One defendant in 2012 allegedly stole thousands of

emails with information on its financial position, cost structure, and business strategy.

TTIP Proposal Criticized

Environmental Groups criticized May 19 a leaked [draft](#) Transatlantic Trade and Investment Partnership negotiating text as the fifth round of talks between the United States and the European Union took place last week.

Canadian Oil Delivery by Rail

TransCanada Corporation CEO Russ Girling said May 21 that the company is considering ways to deliver Canadian crude oil by rail to the United States as customers of its proposed Keystone XL pipeline seek an alternative to the delayed project. A rail option may cost twice as much as sending the crude via the pipeline.

OECD Cost of Pollution Report

The Organization for Economic Cooperation and Development released a [report](#) May 21 finding that air pollution costs the world's biggest economies about \$3.5 trillion a year in premature deaths and illnesses, and that the costs will increase unless vehicle emissions, particularly from diesel fuel, are regulated more. The organization concluded that more than 3.5 million people die every year diseases related to outdoor air pollution.

GCF Concludes Talks

The United Nations Green Climate Fund announced details May 21 of how it plans to raise \$100 billion a year to help developing nations adapt to climate change. The fund's executive board concluded four days of talks by agreeing on operating procedures, including the fund's structure, a project approval process, and administrative rules.

Argentina-US Energy Agreement

Argentina and the United States signed a cooperation agreement May 21 on shale oil and gas, smart grids, renewable energies, non-military nuclear power, and energy efficiency. The deal will help accomplish the goals of the Binational Energy Working Group.

EU Truck Emission Proposals Forthcoming

The European Commission announced May 21 that it would publish in 2015 legislative [proposals](#) to require truck, bus, and other heavy-duty vehicle manufacturers to measure and report fuel consumption and CO2 emissions data. Those emissions are not measured in a standardized way.

EU Electric Transformer Standards

The European Commission published a [regulation](#) May 21 in the Official Journal of the European Union requiring new electrical transformers sold after next July 1 to meet mandatory minimum energy consumption standards. The standard will be tightened from July 2021 to eliminate the least efficient models.

India Recommends Solar Levies

Following an 18-month investigation, India's Commerce Ministry proposed May 23 antidumping levies for photovoltaic cells imported from the United States, China, Taiwan, and Malaysia. The duties required to offset dumping and material injury to local manufacturers are \$0.11 to \$0.048/watt for American imports; \$0.64 to \$0.081/watt for Chinese imports; \$0.62/watt for Malaysian imports; and \$0/59 for Taiwanese imports.

CO2 Levels Top 400 PPM

The World Meteorological Organization announced May 27 that CO2 levels across the northern hemisphere topped 400 parts per million for the first time last month. The number reflects a 40 percent increase since the start of the industrial revolution, and the organization expects the average CO2 concentration to top 400 PM globally in the next several years.

Indian Renewable Energy Growth Expected

India's renewable energy sector anticipates significant growth under Prime Minister elect Narendra Modi, who as chief minister of Gujarat, oversaw substantial solar and wind capacity expansions in his state. Over five years, Mr. Gujarat added about 900 MW of solar power capacity and almost 3,000 MW of wind power capacity, an impressive increase in an area where renewable energy projects lag because of a lack of financing, difficulty in land acquisition, and uncertain policy outlooks. Party officials say that Mr. Modi plans to harness solar power to enable every home to run at least one light bulb by 2019.

STATES

MD Wind Project Forthcoming

Maryland Governor Martin O'Malley (D) vetoed legislation (H.B. 1168) May 16 that would have imposed a 13-month moratorium on construction of tall turbines within 56 miles of Naval Air Station Patuxent River. As a result, Pioneer Green Energy LLC received a green light to continue development of a 150MW wind farm.

NY Utility Climate Adaptation

New York Attorney General Eric Schneiderman (D) [proposed](#) legislation May 19 to require that the state's electricity and gas utilities assess their vulnerability to the impacts of climate change and prepare a plan for adapting to severe weather. The proposed legislation would build on a February decision by the Public Service Commission, which approved a Consolidated Edison plan to spend \$1 billion over the next four years for storm resiliency projects.

RGGI Allowance Prices Increased

The Regional Greenhouse Gas Initiative released May 19 its 2013 annual [report](#), concluding that allowance prices increase 51 percent last year, as investors became more active in the market after the program announced a lower regional cap.

IA Alternative Fuel Tax Credit

Iowa Governor Terry Brandstad signed into law [legislation](#) (S.F. 2344) May 21 that extends and increases the tax credits offered to alternative fuel retailers and biodiesel producers in the state.

NC Fracking Moratorium Challenged

The North Carolina Senate approved [legislation](#) (S.B. 786) May 22 that would lift the state's moratorium of fracking beginning next July. The state House still needs to consider the measure.

Duke Coal Ash Liability

Two Duke Energy shareholders filed a lawsuit last week claiming the company's board and some executives have exposed Duke Energy to billions of dollars in liability because of inadequate coal ash disposal policies. The suit stems from the company's February 2 accident that spewed 39,000 tons of toxic ash into the Dan River from the min retention pond at the company's Dan River Steam Station. The company recently told North Carolina officials that cleaning up its 33 ash retention ponds in the state could cost the company \$2 billion to \$10 billion, depending on regulatory requirements. Those figures do not include the civil and criminal liability the company may face.

OH Considers RPS Delay

Ohio's House of Representatives is considering a measure (S.B. 310) that would freeze for two years requirements that power companies generate electricity from renewable energy. The measure has already passed the Senate, and Governor John Kasich (R-OH) supports it, saying that the delay would grant time to study the 2008 renewable energy standard that he believes to be too costly.

MISCELLANEOUS

Nuclear Matters Additions

Former Federal Energy Regulatory Commissioner Vicky Bailey and Former National Association of Regulatory Utility Commissioners President David Write joined the Nuclear Matters campaign May 27.

Climate Impacts Food Prices

Oxfam released a [report](#) May 20 calling on ten food and beverage companies to address greenhouse gas emissions and other climate impacts within their supply chains. The group cautions that if the companies fail to act, food prices will dramatically increase.

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