

Climate Policy Update

May 26, 2023

Good evening!

This is Akin's newsletter on climate change policy and regulatory developments, providing information on major climate policy headlines from the past two weeks and forthcoming climate-related events and hearings:

National

- **Supreme Court Weakens EPA Power to Enforce Clean Water Act** (*Washington Post*)
In a five to four decision, the Supreme Court ruled that the Environmental Protection Agency's (EPA) interpretation of the Clean Water Act to "regulate the nation's wetlands and waterways" must be rolled back.
- **Granholm Backs Pipeline, Gas and 'Backstop' Authority** (*E&E News*)
Energy Secretary Jennifer Granholm previewed that the Mountain Valley pipeline is slated to "soon begin transporting natural gas, regardless of congressional action on permitting." Moreover, she detailed that the federal government may utilize backstop authority to site transmission projects.
- **Biden Rule Tells Power Plants to Cut Climate Pollution by 90%— Or Shut Down** (*Politico*)
The EPA released its highly anticipated proposed rule that would "require most fossil fuel power plants to slash their greenhouse gas pollution 90 percent between 2035 and 2040 – or shut down." The draft rule relies on carbon capture efforts to abate emissions, although no power plants presently utilize the technology.
- **Legal War Brews over EPA Power Plant Rule** (*E&E News*)
The EPA's power plant draft rule is expected to provoke legal challenges for "its reliance on new and unproven technologies to meet emissions goals that could prompt the closure of more coal-fired power plants."
- **Power Grid Can't Handle Biden's Climate Rule, Industry Groups Say** (*Politico*)
Utility providers are concerned that the EPA's power plant draft rule "threatens to compromise the power network's reliability by pushing their older, dirtier coal and gas plants into retirement at an even faster pace than they are closing now."
- **Biden Vetoes Effort to Undue Solar Tariff Pause** (*Politico*)
President Biden vetoed a resolution that sought to "rescind his two-year moratorium on tariffs for imports of solar equipment from four Southeast Asian countries."
- **Carper Rolls Out Green-Friendly Permitting Overhaul** (*E&E News*)
Sen. Tom Carper (D-DE) unveiled a discussion draft of a permitting overhaul seeking to establish a two-year timeline for "environmental review for projects only related to climate mitigation and resilience."
- **Permitting in Play as White House Debt Talks Resume** (*E&E News*)
As debt ceiling discussions resume against a running clock, permitting reform continues to serve as a

key negotiating point. However, the two parties “remain fairly divided on the particulars of a proposal to overhaul the nation’s permitting process for infrastructure and energy projects.”

- **In a Climate Trade-Off, Biden Backs Manchin’s Fossil Fuel Plan** (*New York Times*)
The White House greenlit Sen. Joe Manchin’s (D-WV) plan to “speed the approval of some fossil fuel projects in order to also hasten the construction of new transmission lines critical for meeting President Biden’s climate goals.”
- **Tax Credit for Clean Energy Raises Concerns from Some U.S. Industries** (*Washington Post*)
The Treasury Department released its plan for awarding the Inflation Reduction Act’s domestic content bonus guidance for clean energy projects last week. While the tax credit is intended to boost domestic manufacturing of steel, iron and other materials, some U.S. manufacturers are concerned that the guidance allows solar panels to qualify “for the 10 percent tax credit even if a crucial component in them, polysilicon wafers, does not come from the United States.”
- **Senators Eye ‘CHIPS 2.0’ as Vehicle for Carbon Tariff** (*E&E News*)
Senate Democrats expressed interest in drafting a “CHIPS and Science 2.0” alongside Republicans to—in part—include “language to institute a carbon border adjustment mechanism, or CBAM – an emissions reduction concept that is gaining support across the political spectrum.”

State & Local

- **Colorado River States Reach Deal with Biden to Protect Drought-Stricken River** (*Washington Post*)
The three Colorado River Lower Basin states—California, Arizona and Nevada—reached a historic agreement with the Biden administration to “conserve an unprecedented amount of their water supply in exchange for about \$1 billion in federal funding.”
- **California Grid Operator Signs Off on \$7.3 Billion of Power Lines** (*Reuters*)
The California Independent System Operator “approved a plan expected to cost \$73 billion for 45 new power transmission projects over the next decade.”
- **New California Budget Means a \$6 Billion Cut, and Future Uncertainty, for Climate Spending** (*Mercury News*)
Gov. Gavin Newsom’s revised 2023-2024 state budget maintains the previously proposed \$6 billion in cuts to climate spending. This rollback will result in “significant hits to funding that previously was pledged to help speed California’s transition to non-polluting cars, clean up the water supply, decarbonize buildings, and protect residents against the increasingly dire effects of extreme heat.”
- **A Climate Clash Spending Spree is About to Get Underway in Washington State** (*Idaho Capital Sun*)
Washington state’s lawmakers are tasked with distributing unprecedented funding from its cap-and-trade program.
- **Lake Powell is Rising More than a Foot a Day but Megadrought’s Effects Will Still Be Felt** (*Washington Post*)
Despite the Colorado River reservoir’s rising levels, experts have detailed that it “would take nearly a decade of wet years to refill Lake Powell.”

International

- **Behind the Scenes, G7 Nations Wrangle over Ambitious Climate Commitments** (*New York Times*)
As the Group of 7 (G7) wrapped their annual meeting this weekend, countries “were wrangling over whether to loosen commitments to phase out the use of carbon-emitting fuels like gas and coal in time to avert the worst effects of global warming.” The summit’s final communique allows the continued investment in certain coal-fired power plants and slight modifications to language regarding natural gas infrastructure investments.

- **EU Car Emission Limits Face Pushback from Eight Members** (*Reuters*)
France, Italy, the Czech Republic, Bulgaria, Hungary, Poland, Romania, and Slovakia are “pushing to weaken [European Union (EU)] emission limits for cars, saying they are overly ambitious and unrealistic for automakers to hit.”
- **New UN ‘Roadmap’ Shows How to Drastically Slash Plastic Pollution** (*United Nations*)
The United Nations Environment Program (UNEP) released a report titled “Turning off the Tap: How the World Can End Plastics Out of Ecosystems, Out of Our Bodies, and in the Economy.” The document outlines “design and safety standards for disposing non-recyclable plastic waste and making manufacturers responsible for products shedding microplastics.”
- **Kerry Challenges Oil Industry to Prove Its Promised Tech Rescue for Climate-Wrecking Emissions** (*ABC News*)
U.S. Climate Envoy John Kerry pressed oil and gas producers to deploy technology “to extract the climate-damaging gases that make fossil fuels the main culprit in climate change.” Moreover, he argued that the ideal solution is a global transition to renewable energy.
- **Australian Government Approves First New Coal Mine Since Elected** (*BBC*)
The Australian government approved the Isaac River coal mine which is expected to “produce about 2.5 million tons of coal over five years.”

Check out below for key quotes, federal agency news and a look at the week ahead in congressional hearings and think tank events:

Quotes of the Week

“We know that there is a real desire to have energy security in areas where there’s huge demand for power [...] We also know that we have got to accelerate investment in clean [energy].”

– **Sec. Jennifer Granholm on the Biden administration’s energy priorities** (*Politico* – May 18)

“If the timing worked, it certainly is a very important check on Chinese pollution and on Americans subsidizing China’s pollution [...] and I think that could have bipartisan support.”

– **Sen. Sheldon Whitehouse (D-RI) on CBAM language in a CHIPS 2.0 bill** (*E&E News* – May 10)

Congressional Hearings (May 29 - June 2, 2023)

Senate

Hearings to Examine the Reliability and Resiliency of Electric Service in The United States in Light of Recent Reliability Assessments and Alerts

Senate Energy and Natural Resources

Thursday, June 1, 10:00 AM EDT

House of Representatives

No relevant House hearings.

Federal Agency Climate News

White House

[Statement from President Joe Biden on Historic Agreement to Protect Colorado River System](#) (May 22)

[Remarks by President Biden and Prime Minister Albanese at Signing of the Australia-U.S. Statement of Intent on Climate, Critical Minerals, and the Clean Energy Transformation](#) (May 20)

[Australia-United States Climate, Critical Minerals and Clean Energy Transformation Compact](#) (May 20)

[Readout of National Climate Advisor Ali Zaidi's Meeting with Clean Energy Manufacturing Companies Who Support President Biden's Climate and Investing in America Agenda](#) (May 18)

[Biden-Harris Administration Announces New Actions and Investments to Lower Energy Costs, and Make Affordable Homes More Energy Efficient and Climate Resilient for Hard-Working Families](#) (May 11)

[Remarks as Prepared for Delivery by Senior Advisor John Podesta on the Biden-Harris Administration's Priorities for Energy Infrastructure Permitting Reform](#) (May 10)

[Biden-Harris Administration Outlines Priorities for Building America's Energy Infrastructure Faster, Safer and Cleaner](#) (May 10)

Environmental Protection Agency

[EPA Launches Interactive Map of Sea Level Rise Around Hazardous Waste Sites Along the U.S. Coastline to Help Facilities and Communities Become More Resilient to Climate Change](#) (May 18)

[EPA Seeks Input on Methane Emissions and Waste Reduction Incentive Program for Petroleum and Natural Gas Systems](#) (May 18)

[EPA Proposes New Carbon Pollution Standards for Fossil Fuel-Fired Power Plants to Tackle the Climate Crisis and Protect Public Health](#) (May 5)

Department of Energy

[DOE Launches New Energy Earthshot to Decarbonize Transportation and Industrial Sectors](#) (May 24)

[Biden-Harris Administration Invests \\$50 Million in States and Tribal Nations to Modernize America's Electric Grid](#) (May 23)

[DOE Announces Nearly \\$60 Million to Advance Clean Hydrogen Technologies and Improve the Electric Power Grid](#) (May 22)

[DOE Announces \\$187 Million to Ensure Widespread And Accelerated Electrification of America's Transportation Sector](#) (May 19)

[Biden-Harris Administration Invests \\$51 Million in America's Electric Vehicle Charging Network](#) (May 18)

[Biden-Harris Administration Invests \\$251 Million to Expand Infrastructure to Support CO2 Transport and Storage](#) (May 17)

[Biden-Harris Administration Announces \\$50 Million To Boost Clean Energy Solutions and Cut Costs for Rural America](#) (May 11)

[Biden-Harris Administration Invests \\$26 Million to Support a Modern, Reliable and Resilient American Clean Energy Grid](#) (May 10)

Department of Interior

[Biden-Harris Administration Announces Historic Consensus System Conservation Proposal to Protect the Colorado River Basin](#) (May 22)

Funding and Comment Opportunities

Enhanced Geothermal Systems Pilot Program

Department of Energy

Letters of Intent: March 8, 2023

Close Date: June 16, 2023

Carbon Capture Large-Scale Pilots

Department of Energy

Concept Papers: April 5, 2023

Close Date: June 21, 2023

Civil Nuclear Credit Program

Department of Energy

Close Date: May 31, 2023

Environmental Justice Thriving Communities Grantmaking Program

Environmental Protection Agency

Close Date: May 31, 2023

Pollution Prevention Grant: Environmental Justice in Communities

Environmental Protection Agency

Close Date: June 6, 2023

Pollution Prevention Grant: Environmental Justice Through Safer/Sustainable Products

Environmental Protection Agency

Close Date: June 20, 2023

Energy Efficiency and Conservation Block Grant Program

Department of Energy

Pre-Award Information: April 28, 2023

Close Date: July 31, 2023

Energy Improvements in Rural or Remote Areas

Department of Energy

Concept Papers: April 14, 2023

Close Date: June 28, 2023

Clean Energy Demonstration Program on Current and Former Mine Land

Department of Energy

Concept Paper: May 11, 2023

Close Date: August 31, 2023

Clean Ports Program

Environmental Protection Agency

Close Date: June 5, 2023

Empowering Rural America

Department of Agriculture

Close Date: August 31, 2023

Powering Affordable Clean Energy

Department of Agriculture

Close Date: September 29, 2023

D.C. Climate Events

[Top Business Leaders On the Prospects for a New Climate Industrial Revolution](#)

Washington Post Live

Tuesday, May 30, 3:00 PM EDT

[Permitting Reform](#)

Punchbowl News

Wednesday, May 31, 9:00 AM EDT

For more information, please contact your regular Akin lawyer or advisor, or:

[Kenneth J. Markowitz](#)

[Dario J. Frommer](#)

[Stacey H. Mitchell](#)

[Christopher A. Treanor](#)

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