

# Climate Policy Update

March 9, 2023

Good evening!

This is Akin Gump's weekly policy newsletter on climate change policy and regulatory developments, providing information on major climate policy headlines from this past week and forthcoming climate-related events and hearings:

## National

- **Biden-Harris Administration Announces Over \$250 Million to Fund Innovative Projects that Tackle Climate Change** (*Environmental Protection Agency*)  
On March 1, 2023, the Environmental Protection Agency (EPA) announced the availability of \$250 million in funding to assist states, local governments, tribes and territories to “implement scalable solutions that protect people from pollution and advance environmental justice.” Specifically, the grant funding is intended to support climate plans focused on greenhouse gas emissions inventories; emissions projections and reduction targets; economic, health and social benefits; plans to leverage other sources of federal funding; and workforce needs to bolster decarbonization and future government staffing and budget needs.
- **EPA Order Dioxin Testing at Ohio Train Crash Site** (*Politico*)  
The EPA ordered Norfolk Southern to oversee testing for dioxins in East Palestine, Ohio. This decision comes after weeks of local pressure, as the EPA previously argued that “because dioxins are ubiquitous in the environment from other widespread sources like burning fossil fuels, it may be hard to tell whether contamination found at the site was present prior to the crash.”
- **Warren, Whitehouse Lead Democrats in Pressing Gensler for Strong Climate Rule** (*Politico*)  
Sens. Elizabeth Warren (D-MA) and Sheldon Whitehouse (D-RI)—alongside over 50 lawmakers—penned a letter to Securities and Exchange Commission (SEC) Chair Gary Gensler urging him to “not back down on a proposal to force companies to disclose information about their carbon footprints.” As Chair Gensler previously considered rolling back the SEC’s highly anticipated and long delayed climate disclosure rule, the letter argued that “investors are demanding the information.”
- **Congress Torpedoes Biden ESG Rule** (*E&E News*)  
With a 50-46 vote, the Senate sought to nullify through the use of the Congressional Review Act, a Biden administration rule that would “enable retirement funds to consider environmental, social, and governance [(ESG)] factors when considering investments.” Sens. Joe Manchin (D-WV) and Jon Tester (D-MT) voted alongside the Senate GOP to roll back the Department of Labor rulemaking. However, the White House reiterated that the President would veto the effort, leaving the rule in place.
- **Democrats Scoff at Republican Permitting Plan** (*E&E News*)  
On February 28, the House Natural Resources Committee discussed Rep. Garret Graves’ (R-LA) Building United States Infrastructure Through Limited Delays and Efficient Reviews (BUILDER) Act, which would “seek to speed up environmental reviews that can currently delay permits for energy projects, including wind and solar, by requiring regulators to rely on existing ‘reliable’ data rather than

conduct lengthy new research” as well as “allow project sponsors to assist in conducting environmental reviews and limit lawsuits.” Interestingly, Democrats were split on the BUILDER Act, with the Committee Ranking Member Raul Grijalva (D-AZ) expressing concern with hindering the National Environmental Policy Act (NEPA) while others highlighted the bipartisan interest in reforming permitting processes.

## Local

- **Feds Allow Diablo Canyon to Stay Open While Seeking 20-Year Extension** (*CalMatters*)  
On March 2, 2023, the U.S. Nuclear Regulatory Commission granted Diablo Canyon an exemption to continue operation as it seeks permission to operate past 2025. Pacific Gas & Electric (PG&E) has until December 31 to “submit its renewal application, which must outline issues related to safety and integrity of the aging reactors.” PG&E is aiming to keep Diablo Canyon in operation for up to an additional 20 years, which is the “full extent that is customary for a nuclear power plant application.” While California elected officials have not expressed support for Diablo Canyon’s extended operation past 2030, Gov. Gavin Newsom (D-CA) and other legislators have previously expressed support for Diablo Canyon to continue providing electricity until 2030 to ensure the grid capacity necessary for a transition to renewable energy.
- **Renewable Projects Are Slow to Develop Amid New York’s Climate Goals** (*Politico*)  
There are growing concerns regarding whether New York state will meet its ambitious climate goals, particularly as “not even half of the new wind, solar, and energy storage projects—27 out of 57—that embarked on a 22-month process have opted to pay the costs to connect to New York’s electric system and move toward construction.” Further, only eight of New York’s large-scale clean energy projects awarded since 2017 are operational in support of the state’s environmental targets.
- **Youngkin Faces Flood of Opposition to Withdrawal from Climate Agreement** (*WRIC*)  
As Gov. Glenn Youngkin (R-VA) seeks to withdraw the Commonwealth from the Regional Greenhouse Gas Initiative (RGGI), Virginians are submitting public comments to the Department for Environmental Quality. Since opening for comments on January 30, the proposed regulatory action has collected over 1,000 comments—most of which expressing opposition to the Governor’s plan. Of note, Richmond Mayor Levar Stoney penned a comment in support of RGGI, specifically citing the benefits of the Community Flood Preparedness Fund.
- **Maryland Governor Taps Gas Industry Official to Help Regulate Gas Industry** (*Washington Post*)  
Despite an inaugural address promise to shift Maryland toward 100% clean energy by 2025, Gov. Wes Moore (D-MD) controversially nominated a natural gas industry official to the Public Service Commission. As the Commission is tasked with regulating utility companies and catalyzing the state’s efforts to address climate change, environmentalists are concerned the nomination of the American Gas Association’s Juan Alvarado “will help slow or stop efforts to phase out natural gas statewide.”

## International

- **A Long-Sought Loss and Damage Deal Was Finalized at COP27. Now, the Hard Work Begins.** (*Inside Climate News*)  
After a loss and damage deal was finalized at COP27, the United Nations Framework Convention on Climate Change announced the committee members that will determine how to implement the deal. The committee is expected to meet later this month, and among their tasks will “decide which countries will pay into the fund, which countries will be eligible to receive money, and through which channels the funding will flow.”
- **Sultan Al-Jaber, COP28 President, Calls for Climate Action** (*Associated Press*)  
COP28 President Sultan al-Jaber stressed the importance of cutting global emissions by 7% each year, as well as slashing methane emissions, to key energy industry stakeholders at CeraWeek. Al-Jaber pointedly highlighted emissions related to electricity, cement, steel and aluminum, and additionally stressed the importance of directing clean energy investments to the developing world.

- **No More Excuses; Guterres Calls for ‘Revolution of Support’ to Aid World’s Least Developed Countries** (*United Nations*)

At the United Nations Conference on the Least Developed Countries (LDCs), Secretary Antonio Guterres argued that the “global financial system, created by wealthy countries to serve their own interests, is extremely unfair to LDCs, who must pay interest rates that can be eight times higher than those in developed countries.” Moreover, he called for support for vulnerable countries to meet the United Nations’ Sustainable Development Goals and a reformed global financial system.

- **EU’s von der Leyden Says She Will Tackle US Green Subsidies, Overcome E-Fuels Impasse** (*Reuters*)

While visiting Chancellor Olaf Scholz and the German cabinet, the European Union (EU) Commission President Ursula von der Leyden outlined that “European electric carmakers had been given access to U.S. tax advantages but the EU needed to ensure they also benefited in the batteries and battery component segments.” In addition to newly agreed upon trade deals with New Zealand and Chile, von der Leyden detailed that the EU is additionally interested in establishing a deal with Australia, Mexico and Latin America by the end of the year.

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

*“Republicans talk about their love of free markets, small government, and letting the private sector do its work. The Republican bill is the opposite of that [...] It forces MAGA Republicans’ ideology down the throats of the private sector and handcuffing investors as well...that is why [President Biden] will veto the bill if it does come to his desk.”*

– *White House Press Secretary Karine Jean-Pierre reacting to the Senate’s bill to roll back a Department of Labor rule preventing the consideration of ESG factors by those overseeing retirement investment accounts* (*E&E News* - March 2)

*“Only 15 percent of clean tech investment reaches developing economies in the global south, and that is where 80 percent of the population lives.”*

– *Sultan Al-Jaber discussing clean energy investment* (*Associated Press* - March 6)

## Upcoming Congressional Hearings (March 6 - 10, 2022)

### Senate

#### Crypto Mining Environmental Impacts

**Senate Environment and Public Works  
Subcommittee on Clean Air, Climate and Nuclear  
Safety**

Tuesday, March 7, 2:30 PM EST

406 Dirksen Senate Office Building

### House of Representatives

#### Energy Department U.S. Research Ecosystem

**House Science, Space and Technology**

Wednesday, March 8, 10:00 AM EST

2318 Rayburn House Office Building

#### Pipeline Safety

**House Transportation and Infrastructure  
Subcommittee on Railroads, Pipelines and  
Hazardous Materials**

Wednesday, March 8, 10:00 AM EST

2167 Rayburn House Office Building

**Multiple Use of Water Resources**

**House Natural Resources Subcommittee on Water, Oceans and Wildlife**

Wednesday, March 8, 2:00 PM EST

1324 Longworth House Office Building

## Federal Agency Climate News

### **Environmental Protection Agency**

**Biden-Harris Administration Announces Over \$250 Million to Fund Innovative Projects That Tackle Climate Pollution** (March 1)

### **Department of Energy**

**Biden-Harris Administration Invests \$315 Million to Advance Reliable Clean Energy in Rural and Remote Communities** (March 1)

**U.S. Department of Energy Releases Guidance for Second Award Cycle of Bipartisan Infrastructure Law's \$6 Billion Civil Nuclear Credits Program** (March 2)

## Funding Opportunities

### **Hydrogen Fuel Shot**

#### **Department of Energy**

Close Date: April 28, 2023

### **Key Deployment Challenges for Offshore, Land-Based and Distributed Wind**

#### **Department of Energy**

Close Date: March 10, 2023

### **Enhanced Geothermal Systems Pilot Program**

#### **Department of Energy**

Close Date: June 16, 2023

### **Carbon Capture Large-Scale Pilots**

#### **Department of Energy**

Close Date: June 21, 2023

### **Civil Nuclear Credit Program**

#### **Department of Energy**

### **Energy Efficiency and Conservation Block Grant Program**

#### **Department of Energy**

Close Date: July 31, 2023

### **Resilient and Efficient Codes Implementation**

#### **Department of Energy**

Close Date: March 27, 2023

### **Energy Improvements in Rural or Remote Areas**

#### **Department of Energy**

Close Date: June 28, 2023

### **Carbon Capture Demonstration Projects Program**

#### **Department of Energy**

Close Date: May 23, 2023

### **Environmental Justice Government-to-Government Program**

Close Date: May 31, 2023

**Environmental Justice Collaborative Problem-Solving Cooperative Agreement Program**

**Environmental Protection Agency**

Close Date: April 10, 2023

**Environmental Justice Thriving Communities Grantmaking Program**

**Environmental Protection Agency**

Close Date: May 31, 2023

**Environmental Protection Agency**

Close Date: April 10, 2023

**Climate Pollution Reduction Grant Program**

**Environmental Protection Agency**

Close Date: March 31, 2023

## Comment Opportunities

**Environment and Climate Justice Program**

**Environmental Protection Agency**

Close Date: March 17, 2023

## Upcoming D.C. Climate Events (Registration)

**Energy Management: Distributed Energy Resources and FEREC (Federal Energy Regulation Commission) Guidance**

**The United States Energy Association**

Wednesday, March 8, 10:00 AM EST

**The Changing Geopolitics of Critical Minerals and the Future of the Clean Energy Transition**

**The Wilson Center**

Thursday, March 9, 9:00 AM EST

**How Direct Air Capture Succeeds**

**Carbon 180**

Wednesday, March 8, 3:00 PM EST

**Implementing the Inflation Reduction Act and Infrastructure Investment and Jobs Act**

**The Environment and Energy Study**

Thursday, March 9, 2:00 PM EST

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

**Kenneth J. Markowitz**

**Dario J. Frommer**

**Stacey H. Mitchell**

**Christopher A. Treanor**

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