

Climate Policy Update

September 12, 2024

Good morning!

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

National

Republicans return from recess to hound Democrats on energy *(E&E News)*

Ahead of the November elections, House Republicans are targeting Democratic energy policies, linking them to inflation and high costs. They plan hearings and votes to showcase their alternative approach, while Democrats prepare to defend their energy initiatives as beneficial for jobs and climate change. Both parties are positioning energy policy as a key election issue.

Westerman's NEPA bill shakes up permitting talks *(E&E News)*

Sens. Joe Manchin and John Barrasso advanced their permitting reform bill with bipartisan support, but House Republicans added complexity by proposing significant changes to the National Environmental Policy Act (NEPA). The House draft aims to limit environmental reviews and litigation, leading to Democrat pushback. Despite the hurdles, negotiations continue in hopes of passing a reform bill by year's end.

Bipartisan House duo plots push to shrink China's minerals dominance *(PoliticoPro)*

Reps. Rob Wittman and Kathy Castor are drafting bipartisan legislation to boost the U.S. supply of critical minerals for clean energy, possibly through price supports or a strategic reserve. The bill aims to find common ground with ideas like deep-sea mining and mineral recycling incentives.

Harris embraces US fossil fuels in showdown with Trump *(EnergyWire)*

During a presidential debate, Kamala Harris defended U.S. oil and gas production while also promoting clean energy to counter Republican criticism of her climate policies. Harris highlighted record-high domestic oil and gas production under the Biden administration, stating it helps reduce reliance on foreign oil. Although she vowed not to ban fracking, her comments on increasing fossil fuel output sparked criticism from environmentalists, who want her to prioritize bold climate action.

Harris campaign issues broad climate, energy vision *(PoliticoPro)*

Kamala Harris' campaign highlighted clean energy job growth and record oil and gas production for energy security but lacked specific policy details, drawing some criticism from environmentalists. Supporters believe

she will build on Biden's climate achievements, contrasting her approach with Trump's anti-environment stance. Critics worry her focus on fossil fuel output may not appeal to young climate voters.

Biden's race to spend billions of climate bucks *(Axios)*

The Biden administration is rushing to deploy billions in clean energy funding before his term ends, amid threats from Trump to reclaim unspent funds. Recent efforts include investments in renewables, climate forecasting, and greenhouse gas reductions. Key programs at the Environmental Protection Agency (EPA) and Energy Department remain at risk if not fully implemented soon.

Trump vows to pull back climate law's unspent dollars *(PoliticoPro)*

Donald Trump has vowed to cancel any unspent funds from the Inflation Reduction Act (IRA) if elected, calling it a wasteful "Green New Scam." This threat increases pressure on the Biden administration to speed up IRA fund distribution. Trump's broader plans include creating a government efficiency commission and fast-tracking energy projects to lower prices and boost domestic production.

The climate law spurs rural electric co-ops' retreat from coal *(ClimateWire)*

President Biden's \$7.3 billion funding for rural electric cooperatives, part of the IRA, marks a significant shift towards cleaner energy, driven by years of collaboration between environmentalists and cooperatives. The program, which addresses long-standing challenges in rural energy transitions, has sparked substantial interest from co-ops, showing a growing commitment to renewable energy.

The oil industry is bracing for the methane fee. Here's what to know. *(ClimateWire)*

The oil industry is divided on how to prepare for the new methane tax, starting in 2025, which could cost up to \$750 million. Some companies are enhancing emissions monitoring, while others are waiting for legal outcomes or potential policy changes. The tax, part of Biden's climate law, will charge \$900 per metric ton of excess methane in 2024, increasing to \$1,500 by 2026, with uncertainty about which facilities will be affected.

FERC staffing at risk in Supreme Court fight over agency power *(EnergyWire)*

The Supreme Court may soon review a challenge to the independence of federal agencies, specifically concerning the president's ability to fire heads of agencies like the Consumer Product Safety Commission. The case, brought by Consumers' Research and supported by conservative groups, argues for easier removal of agency leaders, potentially impacting other independent bodies.

The next frontier in the Supreme Court war against agency power *(GreenWire)*

Following the Supreme Court's recent rulings limiting federal agencies' power, conservative legal groups are preparing new challenges targeting regulators. The Pacific Legal Foundation is arguing that Congress has given excessive authority to agencies in environmental cases, invoking the nondelegation doctrine, which restricts how much power lawmakers can delegate to executive agencies. If revived, this doctrine could significantly change how Congress grants authority to agencies.

Supreme Court urged to limit NEPA climate reviews *(EnergyWire)*

Red states, Republican lawmakers and industry groups are advocating for the Supreme Court to limit the scope of federal climate reviews under the NEPA for projects like highways and pipelines. They argue that NEPA

should only cover impacts that an agency has direct authority to regulate, rather than indirect effects, as seen in a case involving a crude oil railway project.

State and Local

Nevada, Arizona governors urge Newsom to rethink his oil refiner proposal *(PoliticoPro)*

The governors of Arizona and Nevada urged California Gov. Gavin Newsom to reconsider imposing new fuel storage requirements on oil refiners, expressing concerns that it could raise gas prices in their states. The proposal, backed by Newsom, aims to prevent price spikes by requiring refiners to store more gas, but critics argue it could lead to shortages and increased costs.

California urges Supreme Court to uphold Clean Air Act waiver *(PoliticoPro)*

California and the Biden administration asked the Supreme Court to dismiss a challenge from fossil fuel groups seeking to block the state's authority to set stricter vehicle emissions standards. The challengers want the Supreme Court to overturn the waiver, but California Attorney General Rob Bonta and the EPA maintain it is crucial for addressing pollution and climate change, with 17 other states also following California's standards.

EPA greenlights California indirect warehouse emissions rule *(PoliticoPro)*

The EPA has approved a California rule requiring warehouses in the Los Angeles area to reduce or offset pollution from trucks visiting their facilities. The rule allows warehouses to earn points for actions like installing clean energy systems or pay a fee if they don't meet emissions targets. Environmentalists hope to expand this approach to rail yards and ports, with other states like New York also considering similar regulations.

New York eyes nuclear, new technologies to reduce emissions *(EnergyWire)*

Governor Kathy Hochul is considering nuclear power as part of New York's strategy to achieve its renewable energy goals, alongside other technologies like wind and solar. At a recent summit, she released a draft blueprint on nuclear energy, addressing benefits and challenges such as funding and waste. As the state struggles to meet its 2030 renewable electricity target amid rising energy demands, Hochul is seeking public input on integrating nuclear power into New York's energy mix.

Politico Pro Q&A: Washington state Sen. Joe Nguyen *(PoliticoPro)*

Washington state Senator Joe Nguyen is preparing to defend the state's cap-and-invest climate program against a November ballot measure seeking its repeal. Nguyen, who helped create the program, faces criticism that it has increased gas prices and is working to counter this while also exploring potential linkage with California's carbon market. Although the campaign is tight, Nguyen remains cautiously optimistic with significant funding and support for the "no" side.

Solar is bigger in Texas *(Axios)*

Texas now leads California in large solar power capacity, reaching 21.9 gigawatts compared to California's 21.1 gigawatts. This growth highlights Texas as a key player in the future of energy and climate technology, driven by its favorable conditions and simpler regulatory processes. The state's deregulated energy market and proactive grid management further support its role as a hub for renewable energy and climate tech startups.

International

Second Meeting of U.S.-China Working Group on Enhancing Climate Action in the 2020s *(Media Note from the U.S. Embassy & Consulates in China)*

From September 4-6, 2024, the U.S.-China Working Group met in Beijing to discuss climate strategies, including the 2030 and 2035 Nationally Determined Contributions (NDCs). They planned a Methane and Non-CO2 Gases Summit at COP 29 and committed to enhancing forest conservation efforts. The meeting emphasized continued collaboration and support for COP 29.

US-China climate talks end without major commitments *(ClimateWire)*

The U.S. and China have made progress in narrowing their climate finance differences but may face further challenges depending on the outcome of the upcoming U.S. presidential election. During recent talks, the U.S. pushed for China to commit more formally to climate finance, while China emphasized its existing contributions, including significant investments in green energy projects in Africa. Both nations are preparing for COP29 and plan to co-host a summit on methane and other pollutants.

Draghi's energy diagnosis: Become a superpower or die slowly *(PoliticoPro)*

Mario Draghi, the former President of the European Central Bank, recently released a report emphasizing that for the European Union (EU) to compete globally, it must unify its energy markets, increase investment in green technology, and empower Brussels with greater regulatory authority. The report warns that Europe's fragmented energy strategy and high taxes are hindering its competitiveness and suggests a more coordinated and assertive policy to secure its energy and economic future.

China's Xi seeks 'friendly' cooperation with Norway on green energy *(Reuters)*

During a recent meeting between Chinese President Xi Jinping and Norwegian Prime Minister Jonas Gahr Stoere, President Xi said China is open to collaborating with Norway on green energy and other sectors such as shipping, agriculture, and electric vehicles, Stoere noted the importance of China's role in the global green transition and highlighted discussions on climate policies, business, and human rights

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

Quote of the Week

"I have not banned fracking as vice president of the United States, and in fact, I was the tie-breaking vote on the Inflation Reduction Act, which opened new leases for fracking. My position is that we have to invest in diverse sources of energy so we reduce our reliance on foreign oil. We have had the largest increase in domestic oil production in history because of an approach that recognizes that we cannot overrely on foreign oil."

-Vice President Harris *during Tuesday night's 2024 Presidential debate with former President Donald Trump* (**PBS News** – September 10, 2024)

Congressional Hearings (September 9 -13, 2024)

Senate

Full Committee Hearing to Examine the Department of Energy's Role in Advanced Computing Research

House of Representatives

From Gas to Groceries: Americans Pay the Price of the Biden-Harris Energy Agenda

Energy and Natural Resources

Thursday, September 12, 10:00 AM ET

Energy and Commerce

Wednesday, September 11, 10:00 AM ET

Legislative Hearing Markup on National Environmental Policy Act bills

Natural Resources

Wednesday, September 11, 10:00 AM ET

Federal Agency Climate News

White House

[Biden-Harris Administration Hits Offshore Wind Milestone, Continues to Advance Clean Energy Opportunities](#) (September 5)

[President Biden Visits Westby, Wisconsin, Announces \\$7.3 Billion for Clean, Affordable, Reliable Electricity for Rural America; The Largest Investment in Rural Electrification Since the New Deal](#) (September 5)

Department of Treasury

[U.S. Department of the Treasury Releases New Report Highlighting \\$3.5 Billion in Clean Energy Investments in Low-Income Communities](#) (September 3)

Department of Interior

[Biden-Harris Administration Makes Up to \\$43.5 Million Available for Water Storage Projects in the West Through Investing in America Agenda](#) (September 6)

Department of Energy

[Biden-Harris Administration Invests \\$430 Million to Upgrade America's Hydropower Infrastructure](#) (September 5)

[Biden-Harris Administration Announces \\$31 Million for Transformative Clean Energy Projects Led by Tribal and Local Governments](#) (September 5)

National Oceanic and Atmospheric Administration

[NOAA reaches key milestone in designation of Chumash Heritage National Marine Sanctuary](#) (September 6)

Funding and Comment Opportunities

[Bipartisan Infrastructure Law Enhanced Geothermal Systems \(EGS\) Pilot Demonstrations](#)

Department of Energy

Close Date: September 25, 2024

[Fiscal Year 2024 Solar Energy Supply Chain Incubator](#)

Department of Energy

Close Date: October 7, 2024

[Connected Communities 2.0: Innovations to Manage Growing Transportation, Building, and Industrial Loads to the Grid](#)

Department of Energy

Close Date: October 10, 2024

[Offshore Wind National and Regional Research and Development](#)

Department of Energy

Close Date: November 7, 2024

[Smart Manufacturing Technologies for Material and Process Innovation](#)

Department of Energy

Close Date: November 18, 2024

[Energy Storage Pilot Demonstrations](#)

Department of Energy

Close Date: February 13, 2025

D.C. Climate Events

**The Promise and Challenges of a New Energy Era
ft. Brian Deese**

Washington Post Live

September 10, 11:00 AM ET

**Strategic Equilibrium: America's Manufacturing
Resurgence and the Role of Natural Gas in the
Carbon Competitive World**

Center for Strategic and International Studies

September 11, 10:00 AM ET

**The Energy Transition and Workforce Development
in the US**

The Brookings Institution

September 11, 1:00 PM ET

**Accelerating U.S. Energy Infrastructure: The
Urgency of Permitting Reform**

Bipartisan Policy Center

September 11, 4:00 PM ET

**U.S. Engagement in Emerging Markets: A Fireside
Conversation with Helaina Matza**

Center for Strategic and International Studies

September 12, 9:30 AM ET

**Exploring the Policy Landscape of Carbon
Dioxide Removal**

Environmental and Energy Study Institute

Thursday, September 12, 3:00 PM ET

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

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