

Climate Policy Update

August 22, 2022

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:

- **[Climate Law May Undermine Biden Court Win on Oil Leasing](#)** (*E&E News*)
On Wednesday, a decision from the 5th U.S. Circuit Court of Appeals put a pause on “federal oil and gas leasing designed to give the government time to study the program’s contributions to planet-warming emissions.”
- **[Judge Revives Block on Biden Leasing Pause](#)** (*E&E News*)
A day after the 5th U.S. Circuit Court of Appeals created a pathway for President Biden to pause federal and oil gas leasing, Judge Terry Doughty of the Louisiana District Court “barred the Biden administration from pausing new oil and gas leases on federal lands in 13 Republican-led states.” The ruling argued that the Biden-Harris administration’s pause on lease sales violates the Mineral Leasing Act (MLA) and Outer Continental Shelf Lands Act (OCSLA).
- **[Red States Decry ‘Woke Left’ SEC Proposal for ESG Investing](#)** (*E&E News*)
Attorney General Patrick Morrisey (R-WV) filed formal comments with the Securities and Exchange Commission (SEC). The comments argued that the agency’s proposal—which would oblige firms to prove the validity of its sustainability efforts and goals—violates the Major Questions Doctrine, which was settled in *West Virginia v. EPA*.
- **[The Emerging Role of a Sustainability Coordinator in Leveraged Finances Transactions](#)** (*Speaking Sustainability*)
“Sustainability coordinators” have become a prevalent concept in the financial space and the European Loan Market Association (LMA) published guidance surrounding the role. The role differs between transaction and lending institutions and is tasked with “syndicated loan transaction where the parties intend to structure all or part of the loan as a green, social and/or sustainability-linked (GSS) loan or where it is anticipated that a loan might be converted into a GSS loan at a later date.”
- **[Expansion of Clean Energy Loans is ‘Sleeping Giant’ of Climate Bill](#)** (*New York Times*)
The Inflation Reduction Act of 2022 includes “as much as \$350 billion in additional federal loans and loan guarantees for energy and automotive projects and businesses.” The aforementioned funding will be disbursed by the Department of Energy and may “breathe life into futuristic technologies that banks might find too risky to lend to or into projects that are just short of the money they need to get going.”

- [California Climate Disclosure Bill Advances with Weakened Enforcement](#) (*Politico*)
California's Senate Bill 260 would require private companies that generate at least \$1 billion in annual revenue to "provide annual information on their greenhouse gas emissions." The bill has been amended to "remove explicit penalties for companies failing to report their emissions in a timely fashion." Furthermore, the amended bill compels regulators to consider industry and stakeholder input in determining reporting timelines.
- [Colorado River Water Cut Back – Except for California](#) (*Cal Matters*)
The U.S. Bureau of Reclamation announced the "first-ever Level 2a shortage condition for Lake Mead" which triggered limits to Arizona and Nevada's Colorado River water access. However, California remains entitled to over a third of the river's natural flow.

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

"Even the President cannot make significant changes to the OCSLA and/or the MLA that Congress did not delegate."

-Judge Terry Doughty in his ruling that blocked the Biden-Harris administration's leasing pause

(*E&E News* – August 19, 2022)

"These benefits are going to go to every state, and I'm not just saying that. We know that because we looked at the data [...] And we know where clean energy jobs are growing right now: It's not in blue states, it's not in red states. It's in all states."

-Environmental Entrepreneurs Executive Director Bob Keefe discussing the Inflation Reduction Act.

(*Politico* – August 16, 2022)

Upcoming Congressional Hearings (August 22-26, 2022)

Senate

The Senate is in recess August 22-26.

House of Representatives

[Effective Environmental Enforcement: Tools and Strategies to Protect Vulnerable Communities](#)

House Oversight and Reform Subcommittee on Environment

August 25, 2022, 10:00 AM EST

Cooper Room, Wayne County Community College Eastern Campus

Federal Agency Climate News

The White House

[How the Inflation Reduction Act Lowers Energy Costs, Creates Jobs, and Tackles Climate Change Across America](#) (August 17)

[Inflation Reduction Act Advances Environmental Justice](#) (August 17)

U.S. Department of the Interior

[President Biden's Bipartisan Infrastructure Law to Help Communities Reduce Vulnerability to Drought](#) (August 18)

[Interior Department Announces Actions to Protect Colorado River System, Sets 2023 Operating Conditions for Lake Powell and Lake Mead](#) (August 16)

Environmental Protection Agency (EPA)

[EPA Seeks Input on Proposed Amendments to the New Source Performance Standards for Greenhouse Gas Emissions from New Modified, and Reconstructed Stationary Sources: Electric Generating Units](#) (August 17)

[EPA Seeks Input on the Phase 3 Greenhouse Gas Standard Rulemaking for Heavy-Duty Engines and Vehicles](#) (August 15)

U.S. Department of Energy (DOE)

[Biden-Harris Administration Launches \\$28 Million Program to Advance Hydropower for Clean Energy](#) (August 19)

[DOE Projects Monumental Emissions Reduction From Inflation Reduction Act](#) (August 18)

[DOE Finds Record Production and Job Growth in U.S. Wind Power Sector](#) (August 10)

Upcoming D.C. Climate Events (Registration)

[Pollution Prevention Finance Forum](#)

Environmental Protection Agency

Tuesday, August 23, 2022, 12:00 PM EST

[2022 Climate Summit](#)

Government Executive Media Group

Thursday, August 25, 2022, 11:00 AM

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

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