



### **Client Note: Around the Horn at the Agencies**

Although Congress isn't working this month (and the Supreme Court isn't either until the fall), that's not the case with the executive branch. Agencies continue to implement the Inflation Reduction Act (IRA) and Infrastructure and Investment and Jobs Act (IIJA) and are pushing for more successes in carrying out the laws before the end of the year. To that end, this week's newsletter takes a deeper look into several of the agencies' distinct roles and recent developments in pursuit of the President's climate and clean energy agenda.

### **Department of Energy (DOE)**

Agency overview: DOE is in charge of the nation's energy policy, managing efforts to conserve and produce all types of energy, from oil and natural gas to nuclear and renewables. Its origins [can be traced](#) back to the Manhattan Project, and it continues to play a leading role on nuclear weapons.

Climate nexus: As a key agency supporting the research, development, demonstration, and deployment of clean energy projects, DOE is crucial to the Administration's efforts to accelerate the transition to clean energy and decarbonize our economy. Although providing loans and competitive grants to clean energy developers has been a DOE priority for years, it has received billions more dollars and expanded authority as the primary agency implementing the IRA and the Biden Administration's climate policy.

What to pay attention to: This year, DOE has been doling out a historic amount of funding for clean energy research and projects to support grid resilience, energy storage, domestic manufacturing, transmission development, EV infrastructure, carbon capture, and many other components of the clean energy transition, and so far, there's no end in sight. Just this morning, DOE [announced](#) the first set of awards under the Regional Direct Air Capture (DAC) Hubs program, and reports suggested that awards for the Hydrogen Hubs are expected in September. To keep up with relevant funding opportunities that we're tracking in this space, see [this memo](#), which we update weekly. Finally, DOE is also responsible for regulating an array of appliances' energy efficiency, from stoves to air conditioners pumps to power transformers, and they're in the process of updating a number of these standards.

Yesterday, [DOE proposed a rule](#) that could speed up the permitting process for major transmission lines. The proposal would designate DOE as the lead agency in conducting environmental reviews of electric power line projects, which would have to be completed within two years. After the rule is published in the Federal Register, it will open for public comments for 45 days.

### **Environmental Protection Agency (EPA)**

Agency overview: The EPA is tasked with developing, maintaining, and enforcing national standards to protect public health and the environment, largely through authorities created by landmark laws like the Clean Air Act, Clean Water Act, Safe Drinking Water Act and others.

Climate nexus: Though the IIJA and IRA provided it with [funding opportunities](#) like the Greenhouse Gas Reduction Fund and the ability to sponsor research and development projects, the EPA also plays a regulatory role in issues related to air and water quality, hazardous waste disposal, chemical safety, and emissions standards for vehicles and industrial processes—which are key to advancing the Administration’s climate agenda.

What to pay attention to: Recently, the EPA proposed [pollution standards](#) for fossil fuel-fired power plants and [emissions standards](#) for cars and trucks. Just this week, a group of 30 Democratic Senators sent a [letter](#) to the agency urging strong and broadly applicable standards for coal and natural gas-fired power plant facilities to be finalized no later than March of 2024—in stark contrast to the [Republican letter](#) opposing the rule last week. With the [SCOTUS decision revoking a past power plant rule](#) in 2022, one can only anticipate future court battles over whether the EPA overstepped its authority under the Clean Air Act, especially in light of [recent complaints from industry leaders](#).

The same partisan dynamic can be seen on the proposed light-medium duty vehicle and heavy-duty truck standards, with President Biden [vetoing](#) a Republican-led resolution to overturn the rule in June.

Under the IRA, the EPA was authorized to implement the \$27 billion [Greenhouse Gas Reduction Fund](#), which provides competitive grants through three programs currently taking applications, the [National Clean Investment Fund](#), [Clean Communities Investment Accelerator](#), and [Solar for All](#). It seeks to reduce GHG emissions, particularly in low-income and disadvantaged communities, while stimulating private investment in clean energy projects.

### **Federal Energy Regulatory Commission (FERC)**

Agency overview: FERC is an independent agency which regulates the interstate movement of electricity (i.e., transmission lines) and natural gas and oil (i.e., pipelines). FERC also oversees wholesale electricity sales, liquified natural gas and non-federal hydropower projects.

Climate nexus: With transmission key to deploying renewable energy, FERC received additional backstop authority through the IIJA to site transmission lines in instances where state governments opted not to. Additionally, environmental groups have targeted FERC to halt new fossil fuel pipelines and increase analysis of projects’ carbon footprints. Finally, there are open questions about FERC’s role in regulating hydrogen pipelines, expected to be crucial especially to industrial decarbonization.

What to pay attention to: As we mentioned previously, at the end of July, FERC [finalized a new project interconnection rule](#) that will speed up RTOs/ISOs’ interconnection process and bring more renewable energy and storage onto the grid. There are more gigawatts of clean energy waiting for interconnection than we have on the entire U.S. grid today. The main four reforms of this new rule are as follows: implementation of a first-ready, first-served cluster study process (to increase reviewing efficiency); speeding up the interconnection queue processing; incorporating technological advancements into the interconnection process; and establishing an effective date and transition process. Some of the rule’s largest changes include increased financial commitments for interconnection customers (to weed out

speculative requests and non-viable projects) and firm deadlines and penalties aimed at cracking down on delays.

### **United States Department of Agriculture (USDA)**

Agency overview: USDA covers a wide array of rural and agricultural life, with programs focused on agricultural research, food safety, crop assistance and marketing (including things like credit and loan programs), incentivizing agricultural conservation practices, and rural development (focused on supporting utilities, housing, and businesses). USDA also houses the Forest Service.

Climate nexus: Most climate interest at USDA is in the programs that help farmers adopt conservation practices (these got an \$18 billion bump from the IRA), a similar \$3.1 billion effort to expand the Climate-Smart Commodities program, wildfire management and carbon sequestration practices at the Forest Services, and focusing the rural development funds on climate-positive investments.

What to pay attention to: Much of USDA-related focus is currently on the Farm Bill, the law that reauthorizes and updates USDA's authorities and responsibilities every five years. At the agency itself, many in the climate world are focused on how USDA will get the full \$18 billion in IRA funds out the door (a historic amount that roughly doubles existing funding for these programs over the time period), as well as the [roll out](#) of the Climate-Smart Commodities program.

### **Council on Environmental Quality (CEQ)**

Agency overview: CEQ is located within the Executive Office of the President, coordinating federal environmental efforts and working closely with other agencies on the development of environmental policies and initiatives.

Climate nexus: As the agency responsible for implementing the National Environmental Policy Act (NEPA), CEQ closely oversees key agencies involved in the environmental review and permitting process. In particular, CEQ is focused on ensuring timely and efficient approval of transmission line projects that are crucial to realizing the IRA's clean energy investments.

What to pay attention to: With the passage of the Fiscal Responsibility Act (the deal reached in June to avoid default on the nation's debt), CEQ is tasked with carrying out the permitting changes under NEPA. Late last month, the agency [issued](#) a proposed rule to do so. However, it expanded on the FRA and included climate change and equity as factors to consider when deciding on approval of a project—a move that [some Republicans are calling](#) “dishonest” and that would “discriminate” against certain projects. We expect strong oversight of the proposal from House Republicans when they return to Washington.

### **Department of Treasury**

Agency overview: Treasury manages the federal government's finances and oversees the U.S. financial system and tax laws.

Climate nexus: Treasury's biggest role in climate policy since the passage of the IRA has been providing implementation guidance on the many tax credits included in the law. Given that about two-thirds of the

IRA's \$369 billion investment in clean energy and climate can be attributed to tax credits, Treasury, and more specifically the IRS, has had its hands full interpreting the law, soliciting public comments, and providing guidance on how taxpayers can make use of the credits.

What to pay attention to: Just this week, Treasury [issued](#) its final rule and procedural guidance for the bonus tax credit "adder" that provides up to a 20-percentage point credit boost to the Investment Tax Credit for certain wind and solar projects in low-income communities (max output must be less than 5MW). Now that Treasury has finalized its rulemaking, responsibility shifts over to [DOE](#) to administer the credit since it is capped at 1.8 gigawatts (GW) of eligible solar and wind capacity per year. Separately, eyes are on Treasury regarding other IRA tax credits, including the heavily anticipated guidance governing the 45V tax credit for clean hydrogen production. Yesterday, news broke that Treasury will aim to release it sometime this fall to give officials enough time to get the complicated guidance right. IRS guidance for the domestic content bonus credit has also been the subject of much debate. Many find the initial guidance difficult to implement, but it's not looking like we'll receive more clarity from Treasury until a formal rulemaking process concludes next year.

### **Securities and Exchange Commission (SEC)**

Agency overview: The SEC regulates all public securities markets and the financial reporting of public companies. Its primary mission is to protect investors; maintain fair, orderly, and efficient markets; and facilitate capital formation.

Climate nexus: In March 2022, the SEC [proposed a rule](#) that would require public companies to disclose the material risks posed by climate change to their business and their consolidated financial statements. Since the release of the proposed rule, right-wing and conservative groups have attacked the rule and criticized the SEC for overreaching by trying to force companies to decarbonize. However, SEC Chair Gary Gensler has stated during a House Financial Services Committee hearing that, "We are not a climate policy agency," and "This is about companies that are already making disclosures [about climate risk], and trying to bring some consistency to that disclosure."

What to pay attention to: This fall, the SEC is expected to finalize its proposed rule on climate-related disclosures, which has been significantly delayed from its previous expected release in April 2023. The proposed rule received around 15,000 comments which is likely the reason for the delay, along with growing concerns around scope 3 emissions (the indirect emissions from suppliers and consumers). When the rule is finalized, we anticipate a Congressional Review Act resolution will be introduced in Congress to reverse the rule; however, Biden will likely veto the resolution should it reach his desk. A legal challenge by opponents of the rule is certain as well.

### **Department of the Interior**

Agency overview: Interior is the federal government's main land and water management agency (it owns around two-thirds of all federal lands, with the rest owned by Forest Service and DOD), responsible for overseeing national parks and monuments, processing all kinds of mineral and energy permits, managing water in the West, protecting plants and animals, and managing all federal responsibilities for Native American tribes.

Climate nexus: Interior has taken a leading role in President Biden’s goal to preserve 30 percent of U.S. lands and waters by 2030 (the [America the Beautiful](#) initiative). It has also been the subject of significant lobbying on all sides of the permitting battle – clean energy groups are pushing for faster solar/wind/mineral processing, environmental groups are pushing to halt oil and gas leasing, and some progressive conservation groups oppose both clean energy and oil and gas permits in an effort to preserve the natural environment. Additionally, Interior takes a leading environmental justice role given its relationship with Tribes.

What to pay attention to: Interior is working to make it easier to build renewable energy on federal [lands](#) (with a goal of 25GW of renewable energy by 2025) and [waters](#) (with a goal of 30GW of offshore wind by 2030). Additionally, Interior [received](#) more than \$6.6 billion in funding under the IRA, and is investing it in habitat restoration, land resilience, water projects, and environmental justice initiatives. For example, it is expected to issue \$150 million in funding under the Tribal Electrification Program to increase the number of Tribal homes with zero emission electricity.

### **Department of Housing and Urban Development (HUD)**

Agency overview: HUD is responsible for national policy and programs that address America’s housing needs and community development.

Climate nexus: The IRA allocated [\\$1 billion for projects](#) that improve the energy efficiency, water efficiency, or climate resilience of affordable housing. HUD-assisted multifamily properties are now able to apply for direct loans and grants that support these efforts, promoting the Administration’s goals of decarbonization and housing affordability.

What to pay attention to: Earlier this year, it appeared that HUD was dragging its feet to update energy building codes for federally-backed housing. New homes built under these updated energy codes could save families \$14,500 for single-family homes and \$6,000 per multifamily unit overall, and would avoid 2 million metric tons of carbon dioxide emissions for each year. In May, however, HUD made progress by releasing a draft determination as a step toward updating the building codes, which noted that updating the energy codes would not negatively impact housing availability or affordability. The comment period for the draft determination closed in early August, and we anticipate a final determination on affordability/availability soon which would set the stage for HUD to take action to require all new federally-backed homes to meet the updated energy codes.

### **Department of Transportation (DOT)**

Agency overview: DOT is responsible for planning and coordinating federal transportation projects, as well as setting regulations for all major modes of transportation.

Climate nexus: Climate is listed as a top priority under DOT’s mission statement, focused on reducing the transportation-related GHG emissions and pollution through the development of sustainable and innovative transportation. DOT is also part of the [joint office](#) with the Department of Energy focused on vehicle electrification – a major focus for these agencies and the Administration.

What to pay attention to: DOT offers a variety of [funding opportunities](#) for transit and rail, active transportation, EVs, airports, and air quality.

### **Pioneer and Clients in the News**

Pioneer's [Pierson Stoecklein](#) is moderating a panel discussion in Austin at the [Texas Microgrid Summit](#), which is co-sponsored by the [Microgrid Resources Coalition](#) to support the creation of a clear regulatory framework for owners and operators of microgrids in the state.

Gil Jenkins of [Hannon Armstrong Sustainable Infrastructure \(HASI\)](#) was [quoted in a Semafor piece](#) on the exponential growth in the market of clean energy projects.

Hiro Iwanaga discussed what [Talus Renewables](#) is doing to revolutionize the way farmers produce fertilizer through their green ammonia system on [Climate Now's podcast](#).

The [American Economic Liberties Project](#) [hosted a webinar](#) on Thursday with FTC Chairwoman Lina Khan and Assistant Attorney General Jonathan Kanter on the [agencies' new merger guidelines](#).

[www.pioneerpublicaffairs.com](http://www.pioneerpublicaffairs.com)

