

## In this week's Washington Update:

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We also provide links to information on events of interest in the week ahead.

## ***This Week in Review***

**(1) Senate Passes \$1.2-Trillion Bipartisan Infrastructure Bill (August 10, 2021)** – By a supermajority vote of 69 to 30, the U.S. Senate passed a sweeping, \$1.2-trillion infrastructure bill that includes \$550 billion in new spending on physical and climate-related infrastructure projects, utilities, transportation and expanded high-speed internet. The “Infrastructure Investment and Jobs Act,” Senate Amendment 2137 to H.R. 3684, was shepherded by a bipartisan group of 10 Senators led by Kyrsten Sinema (D-AZ) and Rob Portman (R-OH), and comes after months of negotiations. While the final bill allocates far less money to environmental initiatives than the Biden Administration has advocated, and does not include clean-energy tax credits, it would nonetheless constitute an enormous investment in clean energy infrastructure, electric vehicles, climate resilience and public transit. The text of the legislation has not yet been released in full, but it reportedly authorizes \$110 billion for roads, bridges and major projects; \$73 billion for power infrastructure projects designed to shift the country from fossil fuels to clean energy, including investments in nuclear, carbon capture and clean hydrogen; \$15 billion for electric vehicle charging infrastructure, electric buses and transit; and many billions toward airports, ports and waterways, water infrastructure, clean drinking water, broadband internet and environmental remediation. The bill will now move for a vote in the House of Representatives, but its future is uncertain. House Speaker Nancy Pelosi (D-CA) has stated that she will not bring the bill up for a vote until reconciliation is complete on the \$3.5-trillion budget resolution passed by the Senate on Wednesday (see related article in this *Washington Update*) – a process expected to take months. On August 12, nine moderate Democratic House members sent a letter to Speaker Pelosi, urging her to pass the bipartisan infrastructure bill immediately, before moving to the budget reconciliation. “With the livelihoods of hardworking American families at

stake, we simply can't afford months of unnecessary delays and risk squandering this once-in-a-century, bipartisan infrastructure package," the signatories wrote. The members go on to warn, "We will not consider voting for a budget resolution until the bipartisan Infrastructure Investment and Jobs Act passes the House and is signed into law." For further information: <https://www.congress.gov/bill/117th-congress/house-bill/3684> and <https://www.4cleanair.org/wp-content/uploads/House-Members-Ltr-to-Pelosi-8-12-21.pdf>

**(2) Senate Approves Budget Resolution with Climate, Energy and Environmental Provisions (August 11, 2021)** – In a party-line vote of 50 to 49,

the U.S. Senate approved S. Con. Res. 14 – a \$3.5-trillion budget resolution that provides a budget framework and instructions to individual congressional committees for structuring a reconciliation bill. While the provisions in the resolution are not appropriations of funds, Democratic leaders hope the process could result in a reconciliation bill that will support and ultimately lead to implementation of and funding for the Administration's "Build Back Better" priorities. The budget resolution includes instructions for various congressional committees that aim to further the Administration's climate, energy and environmental goals. Specifically, the committee report accompanying the resolution states, "The Budget Resolution will allow the Senate to make the most significant investment in tackling the climate crisis in US history, and put America on a path to meet President Biden's climate change goals of 80 percent clean electricity and 50 percent economy-wide carbon emissions reductions by 2030." Instructions in the resolution to various committees call for a host of climate and clean energy programs such as climate research; Civilian Climate Corps funding; the Clean Electricity Payment Program; financing for domestic manufacturing of clean energy and auto supply chain technologies; the Clean Energy Technology Accelerator to fund low-income solar and other climate-friendly technologies; environmental justice investments in climate equity; methane polluter fees to reduce carbon emissions; clean energy tax incentives; a Carbon Polluter Import Fee; electrification of the federal vehicle fleet (USPS and non-USPS) and federal buildings; and federal investments in green materials procurement. During the final debate and vote on the bill, the Senate considered and adopted several non-binding amendments including, among others, preventing the implementation of the Green New Deal; barring regulations to ban hydraulic fracturing; expediting the deployment of carbon capture and storage technologies; barring the Agriculture Department from making fossil fuel-burning power plants ineligible for financing; ensuring individuals earning over \$100,000 cannot claim a tax credit for electric vehicles (or setting a maximum of \$40,000 for eligible purchases); precluding EPA from regulating methane emissions on farms; and expanding the use of baseload power from traditional sources to prevent future blackouts and brownouts. The budget resolution and the recently adopted infrastructure legislation (see related article in this *Washington Update*) now go to the House of Representatives for consideration. For further information: <https://www.budget.senate.gov/chairman/newsroom/press/news-senate-budget-chairman-sanders-and-majority-leader-schumer-introduce-historic-budget-resolution>,

<https://www.democrats.senate.gov/imo/media/doc/MEMORANDUM%20for%20Democratic%20Senators%20-%20FY2022%20Budget%20Resolution.pdf> and <https://www.budget.senate.gov/>

**(3) IPCC Releases First Installment of Sixth Assessment Report on Climate Change (August 9, 2021)** – The Intergovernmental Panel on Climate Change (IPCC) – the United Nations’ body of 195 member states charged with assessing the science related to climate change – kicked off the preparation of its Sixth Assessment Report (to be issued in 2022) with the release of the first installment. The installment, from Working Group I, is titled *Climate Change 2021: The Physical Basis*. At a high level, the nearly 4000-page report focuses on the current state of the climate, possible climate futures, climate information for risk assessment and regional adaptation and limiting future climate change, and offers many conclusions. With respect to the current state of the climate, the IPCC members write, “It is unequivocal that human influence has warmed the atmosphere, ocean and land” and “[h]uman influence has warmed the climate at a rate that is unprecedented in at least the last 2000 years.” Further, they find that “[g]lobal surface temperatures will continue to increase until at least the mid-century under all emission scenarios considered. Global warming of 1.5°C and 2°C will be exceeded during the 21<sup>st</sup> century unless deep reductions in carbon dioxide (CO<sub>2</sub>) and other greenhouse gas emissions occur in the coming decades.” The authors emphasize that many changes in the climate system – such as extreme heat, marine heatwaves, heavy precipitation, droughts, tropical cyclones and reductions in Arctic sea ice, snow and permafrost – will increase in frequency and intensity “in direct relation” to intensifying global warming. They report that under scenarios in which CO<sub>2</sub> emissions increase, ocean and land carbon sinks are anticipated to be less effective at slowing the accumulation of CO<sub>2</sub> in the atmosphere and, moreover, that many changes attributable to past and future greenhouse gas emissions “are irreversible for centuries to millennia,” particularly those in the ocean, ice sheets and global sea level. No region of the world appears to be immune from these future increases in climate change. According to a press statement, the Sixth Assessment Report will be the first to provide a more detailed regional assessment of climate change, offering “useful information” to inform risk assessments, adaptation and other decisions as well as “a new framework that helps translate physical changes in the climate – heat, cold, rain, drought, snow, wind, coastal flooding and more – into what they mean for society and ecosystems.” Working Group I Co-Chair Valérie Masson-Delmotte calls the report a “reality check,” stating, “We now have a much clearer picture of the past, present and future climate, which is essential for understanding where we are headed, what can be done, and how we can prepare.” In November, world leaders will convene in Scotland for the 26<sup>th</sup> Conference of the Parties to continue discussions related to the Paris Agreement and the UN Framework Convention on Climate Change. For further information: <https://www.ipcc.ch/report/ar6/wg1/>

**(4) NHTSA Proposes Revised Fuel Economy Standards for MYs 2024-2026 (August 10, 2021)** – The National Highway Traffic Safety Administration (NHTSA) of the U.S. Department of Transportation announced its proposed rule to improve

fuel economy standards for model year (MY) 2024 through 2026 light-duty vehicles (LDVs). Similar to EPA's recent proposal to revise LDV emission standards (see related article in this *Washington Update*), this action is taken in response to President Biden's January 20, 2021, Executive Order 13990, in which the President directed the two agencies to review and take action as necessary on the rolled-back emission and fuel economy standards put in place in 2020 under the previous administration's "SAFE 2" rule. Under its proposal, NHTSA would require an 8-percent annual increase in fuel economy for MYs 2024 through 2026 versus the 1.5 percent increases promulgated in "SAFE 2." According to NHTSA, this would result in an average industry fleetwide fuel economy standard of about 48 miles per gallon (mpg) in 2026, which is an improvement over "SAFE 2" of 8.7 mpg. NHTSA also seeks comment on two alternatives: one that would result in a 5.3-mpg improvement over "SAFE 2" and another that would result in an 11.9-mpg improvement. Once this proposal is published in the *Federal Register* NHTSA will accept public comments for 60 days and, during the comment period, will hold a public hearing. For further information: <https://www.nhtsa.gov/laws-regulations/corporate-average-fuel-economy#40466>

**(5) EPA Publishes Proposal to Strengthen LDV GHG Emission Standards and Announcement of August 25 Virtual Public Hearing (August 9-10, 2021)**

– On Tuesday, EPA published in the *Federal Register* (86 Fed. Reg. 43,726) a proposed rule to revise greenhouse gas (GHG) emission standards for model year (MY) 2023 through 2026 light-duty vehicles (LDVs). EPA announced the proposed rule on August 5, 2021 (see related article in the July 31-August 6, 2021, *Washington Update*). The proposed rule would strengthen standards set by the previous administration in its 2020 "SAFE 2" rule, which substantially weakened standards established in 2012. According to the agency, the proposal would set increasingly more stringent emission standards for each MY from 2023 through 2026. For MY 2023, the proposed standards would improve emission reductions by 10 percent over "SAFE 2"; in each of the two subsequent MYs the emissions improvement over "SAFE 2" would be 5 percent. By MY 2026, the standards as proposed "would be the most robust federal GHG standards in U.S. history." The proposed rule also includes alternatives that would result in greater and lesser improvements over "SAFE 2." On Monday, EPA published a notice in the *Federal Register* (86 Fed. Reg. 43,469) announcing an August 25, 2021, virtual public hearing on the proposed LDV rule. The deadline to register to testify or participate in listen-only mode is August 18, 2021. The deadline for written comments on the proposed rule is September 27, 2021. For further information: <https://www.govinfo.gov/content/pkg/FR-2021-08-10/pdf/2021-16582.pdf>, <https://www.govinfo.gov/content/pkg/FR-2021-08-09/pdf/2021-16598.pdf>, <https://www.epa.gov/regulations-emissions-vehicles-and-engines/public-hearing-information-epas-revised-2023-and-later> and <https://www.epa.gov/regulations-emissions-vehicles-and-engines/proposed-rule-revise-existing-national-ghg-emissions>

**(6) Environmental Groups Sue EPA for Allegedly Failing to Take Required Actions Regarding SO<sub>2</sub> SIPs (August 11, 2021)** – Three environmental groups

filed a complaint in the U.S. District Court for the Northern District of California alleging that EPA failed to perform mandatory duties under the Clean Air Act (CAA) with respect to State Implementation Plans (SIPs) for two areas designated nonattainment for sulfur dioxide (SO<sub>2</sub>). Maryland submitted its SIP for the Baltimore SO<sub>2</sub> nonattainment area to EPA on February 3, 2020. EPA found the SIP to be administratively complete on March 18, 2020. The CAA requires EPA to approve or disapprove a SIP within 12 months of a completeness finding. Eighteen months after EPA found the Baltimore SIP to be complete the plaintiffs allege EPA is in violation of its mandatory duty to approve or disapprove, either in whole or in part, Maryland's submitted SIP elements for Baltimore. On March 18, 2016, EPA published an action, effective April 18, 2016, finding that Michigan had failed to submit an attainment SIP for the Detroit SO<sub>2</sub> nonattainment area by the deadline, triggering a requirement for EPA to promulgate a Federal Implementation Plan (FIP) for the area within two years (i.e., by April 18, 2018) unless Michigan makes, and EPA approves, a complete submittal before the FIP is promulgated. EPA has not yet approved an SO<sub>2</sub> SIP for Detroit, therefore, the plaintiffs allege, EPA is in violation of its mandatory duty under the CAA to promulgate a FIP. In both cases, the plaintiffs ask the court to declare the agency in violation of these mandatory duties and issue a mandatory injunction requiring the agency to perform these duties by specified dates. The plaintiffs in this case are the Center for Environmental Health, Sierra Club and Center for Biological Diversity. For further information: [https://www.4cleanair.org/wp-content/uploads/Litigation-Petition\\_SO2-081121.pdf](https://www.4cleanair.org/wp-content/uploads/Litigation-Petition_SO2-081121.pdf)

**(7) NASA Creates Interactive Map of Sea-Level Rise Due to Climate Change (August 9, 2021)** – The National Aeronautics and Space Administration (NASA) released an online visualization tool that illustrates projections of sea levels in the coming decades. Using data compiled for the recently released Intergovernmental Panel on Climate Change (IPCC) Working Group I report (see related article in this *Washington Update*), NASA's Sea Level Change Team created the maps to allow users to select locations and any decade between 2020 and 2150 and obtain visualizations and information based on projections in the IPCC report. The maps include information about different processes that affect sea level, including melting of ice sheets and glaciers and the extent to which circulation patterns of ocean water shift and expand as they warm, thus affecting sea level. For further information: <https://sealevel.nasa.gov/ipcc-ar6-sea-level-projection-tool>

## ***The Week Ahead***

- [Washington Post Live Presents “The Path Forward: The Future of Energy” with Michael Wirth, Chair and CEO, Chevron](#) – August 16, 2021
- [EPA National Environmental Justice Advisory Council Virtual Public Meeting](#) – August 18-19, 2021

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