

# Daily on Energy: Will Biden go partisan on clean energy and infrastructure package?

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# DAILY ONE ENERGY

BY JOSH SIEGEL & ABBY



**THE LANDSCAPE FACING BIDEN:** President-elect **Joe Biden** is facing pressure to go around regular order and use partisan tools to pass his initial priorities through Congress.

In a primetime speech yesterday, he unveiled a \$1.9 trillion American Rescue Plan, a health and economic relief-oriented package.

But more interesting for our purposes, Biden also promised to lay out a Build Back Better Recovery Plan before a joint session of Congress next month with "historic investments in infrastructure and manufacturing, innovation, research and development, and clean energy."

Biden will initially try to negotiate the first package with Republicans to get the required 60 votes — or the support of 10 GOP members — in a split 50-50 Senate, [according to](#) authors of the Punchbowl newsletter.

But that may change if Republican don't budge, an expected outcome in normal times but perhaps more of a likelihood given the partisan tenor of the opening weeks of the new Congress.

As Biden seeks to pass his bills, the Senate will likely be holding a trial to impeach **President Trump**, who will be out of office by that time.

**Pressure to go partisan:** Liberal climate activists view the landscape as impossible for Biden to navigate, and are pressuring him anew to kill the filibuster, which would prevent Republicans from blocking the relief and stimulus packages.

“No compromises, and no excuses,” said **Evan Weber**, political director of the Sunrise Movement.

Short of blowing up the filibuster, Biden could also use budget reconciliation, a tool that enables a simple majority for passage but has limitations in how it can be used. (See our recent [detailed breakdown](#) of reconciliation)

**Hold your horses:** But resorting to partisan methods would essentially require total or near total buy-in from Democrats, and that’s unlikely.

Sen. **Joe Manchin**, Washington’s most powerful and conservative Democrat, told Josh in an interview yesterday (read the full conversation below) that he prefers legislation be made through the regular bipartisan process and is skeptical of passing sweeping measures through reconciliation. He’s already ruled out voting to end the filibuster.

“I have been around for a long time. I have watched people use power and abuse power. The bottom line is it’s better if you use it in the most constructive way. My main goal is to make sure to do everything possible to bring the country together in a bipartisan way,” Manchin said.

**There could be a work-around:** One interesting wrinkle is that reconciliation doesn't have to be partisan in theory.

Reconciliation bills have been bipartisan in the past, including in 2001 during the last 50-50 Congress, when 12 Democrats crossed over to pass President f’s tax cuts.

Biden and Democrats could write a reconciliation bill to appeal to the center and cut out people like the very conservartive **Ted Cruz** and very liberal **Bernie Sanders**. But it’s unlikely to work that way when Sanders is the chairman of the Budget Committee. Stay tuned.

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**MANCHIN TAKES HIS SHOT:** Manchin is signaling that he’ll be a check on liberal climate change policies such as a mandate for carbon-free electricity.

“You cannot eliminate your way to a cleaner environment. You can innovate your way. That is the difference in some people’s aspirational goals,” Manchin told Josh in [the interview yesterday](#).

Manchin, who represents the coal state of West Virginia, is perhaps the most powerful man in Washington. His control over climate change policy is especially significant because he is set to be the chairman of the Energy and Natural Resources Committee, where he was the top-ranked Democrat last Congress.

**Skeptical of clean electricity standard:** Manchin appeared skeptical of imposing a clean electricity standard that would mandate utilities to use only electricity that emits no carbon, although he didn’t rule out supporting such a policy. Biden has proposed requiring 100% carbon-free electricity by 2035, likely through a standard.

“The market will take you there,” Manchin said. “We have moved the date farther ahead than we ever thought we would have, and we have done it without total mandates.”

Manchin added of Biden, who he trusts to be "pragmatic": “I will look and see what they are doing. Anything we pass sure as heck should be feasible. Just setting an artificial date doesn’t always work. You have to have faith in American ingenuity.”

Manchin said that natural gas "has to be" part of the energy mix because it is “very efficient” and a “tremendous part of our environmental portfolio.”

**Favors strict methane rules:** Manchin does support Biden’s vow to crack down on methane leaks from oil and gas operators by imposing tougher regulations.

“There should be no methane escape,” Manchin said. “If operators are not doing it right, get it right or they should go away.”

**EXCLUSIVE...BROUILLETTE TAKES A BOW:** Energy Secretary **Dan Brouillette** supports the incoming Biden administration’s plans to accelerate investments in clean energy and electric vehicles to combat climate change, he told Josh in an [exclusive exit interview](#) published this morning.

While Trump is known for promoting fossil fuel development and questioning climate change science, Brouillette, his understated energy secretary, has been quietly working to develop technologies that he believes will be crucial to realizing a lower-carbon energy economy, such as small nuclear reactors, long-duration energy storage, carbon capture, and higher-efficiency solar.

Now, as he prepares to hand off the reins of the Energy Department, Brouillette argues his agency has “positioned” the United States on a course to be able to meet Biden’s goal of eliminating greenhouse gases from the economy by 2050.

“Some who are skeptical of the Trump administration’s commitment to this might be surprised,” Brouillette said. “Our approach has been different. The approach has been to innovate rather than

regulate, to develop technologies that get us to the same goal rather than harshly prohibit fuels, and to develop technologies to use fuels more cleanly.”

**Brouillette blesses Granholm’s EV focus:** Brouillette had his first substantive conversation Wednesday with his presumed successor, **Jennifer Granholm**, Biden’s nominee for energy secretary, as part of his commitment to carry out a responsible transition.

“I do think once she is here, once she understands not only the work we've done but the work our national labs have done, she may be a bit surprised,” Brouillette said.

Brouillette says he has no problem with Granholm’s promise to focus the Energy Department on promoting the development of electric vehicles as a way to revive the U.S. manufacturing base and create new jobs in clean energy.

“I don't have any challenges with that,” Brouillette said.

Brouillette and Granholm had previous interactions, albeit limited, when she was Democratic governor of Michigan from 2003 to 2011 and he was vice president of Ford.

**Advise for his successor:** Granholm is expected to help companies accelerate their building of electric vehicles through a program of the Energy Department’s clean energy loan office called Advanced Technology Vehicle Manufacturing.

Under Brouillette, the Energy Department did not make much use of the agency’s Loan Programs Office, which oversees Advanced Technology Vehicle Manufacturing and an associated Title XVII program intended to support clean energy projects.

Brouillette said Granholm should be careful how she uses it.

“If [Granholm] wants to use those programs to advance electric vehicles, it’s very important for her to work with appropriators and authorizers to make sure she makes decisions consistent with the way we funded the program,” Brouillette said. “I know she’ll do that.”

Read more about Brouillette’s [reflection on his record](#), including the other more pro-fossil fuel parts of the Trump administration’s agenda.

**TOTAL SPLITS FROM API:** Total, a French oil and gas giant, [is leaving](#) the American Petroleum Institute over frustration with the U.S. oil lobby group’s lack of support for policies to combat climate change.

Total this morning criticized API over its support for the Trump administration’s withdrawal of direct regulation of methane. It also flagged API’s lack of support for carbon pricing, and its opposition to subsidies for electric vehicles.

Total’s decision comes at a moment of transition for API. Just this week, the group committed to [consider supporting](#) federal regulation of methane, a priority of Biden, as part of a rollout of

its 2021 priorities. The group subtly [tweaked its rhetoric about carbon pricing](#) in a report describing its policy priorities.

**Too little, too late:** But that shift was not sufficient for Total, which is among the European oil majors that have committed to aggressive targets to reach net-zero emissions by 2050 across its operations. Total is the first to break from API, but it could put pressure on BP and Shell to follow suit.

**API responds:** An API spokesperson told Josh that the group learned about Total's decision to quit earlier this week.

“We believe that the world’s energy and environmental challenges are large enough that many different approaches are necessary to solve them, and we benefit from a diversity of views,” the spokesperson said.

**VOTERS DON’T BACK CLIMATE SUITS AGAINST BIG OIL, INDUSTRY POLL SAYS:** [Polling](#) commissioned by the National Association of Manufacturers’ Manufacturers’ Accountability Project finds more than 50% of voters say it isn’t important to sue energy companies to make them pay for damages from climate change.

The polling released today by the industry group, which opposes the growing number of state and local lawsuits bringing oil majors to court over climate change, comes ahead of Supreme Court arguments next week in one of these lawsuits brought by the city of Baltimore. The high court will consider a narrow procedural issue related to whether the case should be heard in state or federal court, but the broader lawsuit seeks billions from oil companies to pay for damages from sea level rise, flooding, extreme weather, and other climate change effects.

Just over a quarter of those polled had even heard of the lawsuits, which have now reached two dozen. And according to the polling, only 21% say oil and gas companies should “be held accountable and have to pay the price” for climate change.

In addition, 52% of those polled by the manufacturers’ group said the best way to address damages from climate change is through federal policies to curb emissions. Only 2% said the best way is to sue companies to pay for the damages, according to the poll.

**EPA AIRCRAFT RULE MEETS UNFRIENDLY SKIES:** A dozen states led by California, as well as three major environmental groups spearheaded by the Center for Biological Diversity, sued the EPA today over its greenhouse gas standards for new aircraft engines.

The EPA’s rule [set first-ever carbon pollution standards](#) for aircraft, modeled off international standards negotiated during the Obama administration. The states and environmental groups, however, point to the EPA’s own admission that the standards would do nothing to reduce aircraft greenhouse gas emissions beyond business-as-usual.

According to analysis from the International Council on Clean Transportation, the 12 states suing the EPA represent nearly half of all the carbon emissions from passenger aircraft in the U.S.



“As written, the standard is a clear effort to hamstring the incoming administration on climate change,” said **Dan Rutherford**, aviation director at the International Council on Clean Transportation. “EPA should refashion it to accelerate fleet turnover and then follow up with a separate standard to promote new investments by manufacturers.”

**ONE MORE LEGAL CHALLENGE:** Several environmental groups today challenged the EPA’s [update to decades-old standards](#) addressing lead contamination in water, arguing the Trump administration’s changes are far too weak.

“Have we learned nothing from Flint? The Trump EPA’s weak and illegal rule will condemn another generation of children to drinking lead-tainted tap water,” said **Erik Olson**, senior strategic director for health for the Natural Resources Defense Council, which brought one of the lawsuits. The group is calling on Biden’s team to quickly set tighter standards for lead in drinking water and speed up requirements for companies to replace lead pipes.

Several other groups, including the Sierra Club and the NAACP, filed a separate lawsuit challenging the EPA’s rule.

#### **MASSACHUSETTS GOVERNOR BAKER VETOES SWEEPING CLIMATE**

**BILL:** Gov. **Charlie Baker**, a Republican, has rejected a comprehensive climate bill passed overwhelmingly by the Democratic-controlled legislature, despite telling lawmakers he supports the goals of the bill to put the state on a path to reach net-zero emissions by 2050.

Baker, in a [letter](#) to lawmakers yesterday, raised a number of issues with the bill, including that it could increase the cost of housing, doesn’t include measures to adapt to climate change effects, requires mandates “not supported by scientific and detailed data analysis,” and could negatively affect an economy already damaged by the pandemic.

“Had this bill been presented to me with more time while the Legislature was still in session, I would have returned it with amendments to address the concerns set out in this letter,” Baker wrote. Massachusetts lawmakers passed the bill on the last day of their legislative session, and Baker had 10 days to decide whether to sign it.

State lawmakers, however, criticized the governor’s reasoning for the veto, and they plan to quickly refile the bill.

“The near-total absence of critical feedback from the administration for the entirety of 2020 makes me think the kerfuffle of the past two weeks is really about politics, not policy,” state Sen. **Mike Barrett**, a Democrat and a chief negotiator of the climate bill, [told](#) *MassLive*.

**BIDEN TAPS VETERAN AIR REGULATOR AS EPA DEPUTY:** Biden has picked former Obama EPA air chief **Janet McCabe** as his nominee for the EPA’s number two slot.

McCabe led the EPA’s air office during the Obama administration’s second term, helping to craft signature climate regulations such as the Clean Power Plan limiting greenhouse gases from power plants. She served as the air office’s principal deputy in the first term.

She currently is a professor of practice at Indiana University's McKinney School of Law and directs the university's Environmental Resilience Institute.

#### **WHITE HOUSE REMINDS AGENCIES TO ASSESS 'ENERGY EFFECTS' OF**

**REGS:** The White House budget office, in a [memo](#) earlier this week, reminded federal agencies they must state whether a regulation would have a "significant adverse effect on the supply, distribution, or use of energy" per a Bush-era executive order.

The memo appears to be a pointed message to the incoming administration, rather than Trump agencies, given Biden's plans to issue emissions mandates that would likely meet that threshold. In the memo, OMB also updates the thresholds for what would be considered a "significant adverse effect" on energy "to reflect changes in market conditions since 2001."

According to the updates, a regulation would have an adverse energy effect if it reduces supply and production of crude oil by more than 20 million barrels per year; fuel production by more than 5 million barrels per year; coal production by more than 4 million tons per year; natural gas production by more than 40 million cubic feet per year; or electricity production by more than 10 million megawatt hours per year. Increases in the cost of energy production or distribution by more than 1% would also trigger the order's requirements, OMB says.

**MORE SPR SALES PLANNED:** The Energy Department announced yesterday it plans to sell another round of crude oil from the emergency Strategic Petroleum Reserve. The sales are planned over a multi-month period, with deliveries set to occur as early as April. The precise timing and amount of the sale is to be determined based on DOE's evaluation of the sensitive health of the oil market from the pandemic. "The Department recognizes that a conservative approach to oil sales is prudent," DOE said.