

Climate Policy Update

Akin Gump
STRAUSS HAUER & FELD LLP

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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:

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National

- **[FTC Publishes Updates to Its “Green Guides” for the Use of Environmental Marketing Claims](#)** *(Speaking Sustainability)*
The Federal Trade Commission (FTC) is seeking public comment on its proposed rulemaking to the Green Guides for the Use of Environmental Claims (“Green Guides”). Last updated in 2012, the proposed regulation seeks to update the Green Guides and outline best practices on environmental marketing claims. Specifically, the FTC is seeking feedback on the Green Guides’ necessity, proven consumer benefits and suggested modifications.
- **[EPA Announces \\$100 Million in Environmental Justice Grants](#)** *(Speaking Sustainability)*
On January 10, the Environmental Protection Agency (EPA) announced the availability of \$100 million for two environmental justice grants. Funded through the Inflation Reduction Act, the Environmental Justice Collaborative Problem-Solving Cooperative Agreement Program (EJCPS) will receive \$30 million while the Environmental Justice Government-to-Government Program (EJG2G) is appropriated \$70 million. The EJCPS Program will support nonprofit community organizations in developing and implementing projects that address environmental and public health issues. The EJG2G Program seeks to create model state activities resulting in measurable environmental or public health benefits for communities disproportionately impacted by climate change.
- **[Biden-Harris Administration Releases First-Ever Blueprint to Decarbonize America’s Transportation Sector](#)** *(Department of Energy)*
The Department of Energy (DOE)—in collaboration with the Departments of Transportation, Housing

and Urban Development and the EPA—released the U.S. National Blueprint of Transportation Decarbonization to slash greenhouse gas emissions and reach President Biden’s goal of “securing a 100 percent clean electrical grid by 2035 and reaching net-zero carbon emissions by 2050.”

- **[Interior Department Takes Steps to Strengthen Offshore Clean Energy Development](#)**

(Department of Interior)

The Bureau of Ocean Energy Management (BOEM) is slated to publish a proposed rule to moderate clean energy development in the U.S. Outer Continental Shelf. The rulemaking would update regulations, streamline processes, clarify provisions, strengthen compliance provisions and is expected to “save developers approximately \$1 billion over a 20-year period.”

- **[DOE Launches Updated Mapping Tool to Optimize Renewable Energy Siting Decisions](#)** *(Utility Drive)*

The DOE launched its newest iteration of its Geospatial Energy Mapper (GEM), which seeks to “identify areas of the country that are ideal for uses such as wind and solar farms.” GEM allows up to 190 mapping layers featuring “demographics and utilities, and models for more than 40 types of energy infrastructure.” Additionally, the map details nine energy resources to be assessed for development, including biomass, coal, geothermal, natural gas, nuclear, solar, storage, hydroelectric and wind.

- **[Federal Reserve Board Provides Additional Details on How its Pilot Climate Scenario Analysis Exercise Will Be Conducted](#)** *(Federal Reserve)*

On January 17, the Federal Reserve Board (Board) released details on its pilot climate scenario analysis exercise. Specifically, the six biggest banks in the U.S. will “analyze the impact of scenarios for both physical and transition risks related to climate change on specific assets in their portfolio.” The Board is slated to collect qualitative and quantitative data throughout the pilot program, including information on governance and risk management, measurement methodologies, risk assessment, data challenges, and best practices.

- **[Talk of Gas Stoves Rules Angers Manchin, Republicans](#)** *(E&E News)*

As the Consumer Product Safety Commission’s (CPSC) Richard Trunkja Jr. noted that he is considering gas stove regulations to address air pollutants, Sen. Joe Manchin (D-WV) and Republicans are questioning the Commission’s role. Sen. Manchin called for the “reevaluation” of the Commission, while House Energy & Commerce Chair Cathy McMorris Rodgers (R-WA) is slated to discuss the potential regulation in a committee hearing. Despite the lively discussion, it is unlikely that the CPSC will pursue the regulation, as the other four commissioners have not indicated support for such an effort.

Local

- **[Arizona City Cuts Off a Neighborhood’s Water Supply Amid Drought](#)** *(The Washington Post)*

The city of Scottsdale cut off its water supply—sourced from the Colorado River—to the Rio Verde Foothills community in early January. Since Scottsdale’s decision, residents in Rio Verde Foothills have come to rely on water haulers to “scour distant towns for any available gallons,” almost tripling their water prices. In an effort to identify a long-term solution, residents are debating forming their own water district to purchase water from elsewhere or hiring a Canadian private utility company to supply water. However, the water district plan was rejected by the Maricopa County Supervisors in August.

- **[Environmentalists Say Newsom’s Budget Cuts Jeopardize Climate Programs, Electric Car Mandate](#)** *(Cal Matters)*

Gov. Gavin Newsom (D-CA) released his newest budget, which features cuts for climate spending by \$6 billion--\$3.3 billion of which come from the state’s clean transportation initiatives. Last year, Gov. Newsom advocated for the five-year \$54 billion climate package during the last legislative session.

However, Newsom hopes to “offset those reductions with federal funds and perhaps a new bond reserve.” Environmental advocates are calling for Gov. Newsom to address how the state can meet its lofty electrification goals in the wake of the spending cuts. The governor expressed optimism that the state will meet its climate goals, citing increased investments in climate and transportation as justification for his budget.

- **Governor Hochul Announces \$143 Million Investment in Critical Water Infrastructure Projects Across New York State** (*Governor Kathy Hochul*)

The New York State Environmental Facilities Corporation Board approved a plan to authorize “municipal access to the capital needed to get shovels in the ground for critical drinking water and sewer projects in New York City and the Finger Lakes, Mid-Hudson, and North Country regions.” Specifically, the plan will support financing through New York’s Clean Water State Revolving Fund and Drinking Water State Revolving Fund and build on previously announced grants.

- **Great Lakes Region Could Be a World Leader in Carbon Offset Market, Research Shows** (*MLive*)

Researchers at the University of Michigan determined that the Great Lakes and the St. Lawrence region have the capacity to “provide 52 billion tons of environmentally sound carbon storage through both natural and engineered solutions.” However, the scientists noted the necessity of identifying carbon storage strategies to “ensure emission offsets have the intended effect on the atmosphere.”

- **Governor Dunleavy Outlines Carbon Management Bill Package** (*Gov. Mike Dunleavy*)

Gov. Mike Dunleavy (R-AK) detailed his Carbon Management Bill Package, showcasing anticipated legislative and regulatory action to engage in the carbon markets. The state’s Department of Natural Resources would oversee carbon capture, utilization and storage, as well as biologic sequestration.

- **Two Bills Could Pave Way for Future West Virginia Hydrogen Hub Project** (*WV News*)

Two bills in the West Virginia legislature—SB 161 and 162—may “open up property owned by the Division of Natural Resources (DNR) for underground storage of emissions from a possible hydrogen hub project.” SB 161 would empower the DNR to sell, lease or dispose of property under its control, although it is prohibited from doing so in state parks or forests without legislative approval. Moreover, SB 162 would enable the DNR to lease “state-owned pore spaces beneath state forests, wildlife management areas and other lands under the DNR’s jurisdiction for use in carbon sequestration.”

International

- **Exxon Scientists Predicted Global Warming, Even as Company Cast Doubts, Study Finds** (*The New York Times*)

A recent study revealed that “over the next decades, Exxon’s scientists made remarkably accurate projects of just how much burning fossil fuels would warm the planet,” with more accurate estimates than academic and government models. Despite this knowledge, Exxon has “cast doubt on climate science, and cautioned against any drastic move away from burning fossil fuels.” The study noted that Exxon’s projections tracked temperature increases of about 0.2 degrees Celsius per decade, and “excluded the possibility that human-caused global warming was not occurring.”

- **Relentless Rise of Ocean Heat Content Drives Deadly Extremes** (*Inside Climate News*)

Findings published in the *Advances in Atmospheric Science* journal detailed that ocean heat content “reached a new record high for the fourth year in a row.” Specifically, the ocean has absorbed approximately 10 Zetta joules of heat, “equivalent to 100 times the world’s total annual electricity production.” While the report’s authors note that technical questions about the use of ocean heat content as a climate change metric remain, the researchers expect that ocean heat content reflects climate change more clearly than indexes, such as surface temperature.

- **[Warning of Unprecedented Heatwaves as El Nino Set to Return in 2023](#)** (*The Guardian*)
Scientists cautioned that the return of the El Nino will “cause global temperatures to rise ‘off the chart’ and deliver unprecedented heat waves.” With the climate phenomenon expected to occur in 2023, it is anticipated that the planet will surpass 1.5 Celsius of warming—particularly as 2016’s El Nino resulted in the hottest year in history. In anticipation of the El Nino, scientists have called for emergency service readiness and appropriate agricultural responses.
- **[UN Chief Calls for Renewable Energy ‘Revolution’ for a Brighter Global Future](#)** (*United Nations*)
United Nations Secretary-General Antonio Guterres detailed a five-point plan for a renewable energy transition at the International Renewable Energy Agency Assembly. Mr. Guterres called for the removal of intellectual property barriers facing sustainable solutions, the fast-tracking of clean-energy projects and expedited action, underscoring that renewable energy must comprise “60 percent of global power generation by 2030.”
- **[U.S. Climate Envoy Kerry Outlines Carbon Offset Initiative for Developing Nations](#)** (*Reuters*)
U.S. Climate Envoy John Kerry detailed a carbon offset plan that seeks to assist developing nations in expediting their energy transition. The Energy Transition Accelerator (ETA) aims to “create bankable deals to accelerate reduction of emissions,” although it is not intended to substitute additional funding sources.
- **[Fund Groups Warn over EU Legal Definition of ‘Greenwashing’](#)** (*Reuters*)
Fund industry groups cautioned the European Union (EU) from defining greenwashing in law, expressing that it would “complicate a sector ‘in constant flux.’” Regulators argue that defining greenwashing would be helpful in identifying negligent practices related to environmental, social and governance (ESG) policies. Notably, the European Fund and Asset Management Association pushed back, calling for the EU to utilize existing tools to address greenwashing as opposed to introducing a new definition.
- **[Von der Leyen Announces Net-Zero Industry Act to Compete with U.S. Subsidy Spree](#)** (*Politico*)
The European Commission is expected to propose a Net-Zero Industry Act detailing clean technology objectives for 2030. Intended to parallel the United States’ green energy investments, the plan will focus on supporting projects across the clean energy supply chain and will explore efforts to expedite permitting for green technology production sites. Moreover, the EU will “prepare a European Sovereignty Fund as part of the mid-term review of the bloc’s long-term budget.”
- **[The Renewable Energy Transition is Creating a Green Jobs Boom](#)** (*World Economic Forum*)
The International Renewable Energy Agency determined that employment in the clean energy sector “grew by 700,000 from 2020-2021, reaching 12.7 million jobs.” Drafted in collaboration with the International Labor Organization, the Renewable Energy and Jobs: Annual Review 2022 report detailed that the transition to clean energy could boost international employment in renewables to more than 38 million by 2030.

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

“Today, historic environmental justice funding I fought to secure in the Inflation Reduction Act is being made available [...] helping these non-profits who know their communities better than anyone was central to my mission.”

- **Majority Leader Chuck Schumer (D-NY) reacting to the EPA’s newly released environmental justice grants**
([EPA](#)–January 10)

“Only renewables can safeguard our future, close the energy access gap, stabilize prices, and ensure energy security.”

- **UN Secretary-General Antonio Guterres at the International Renewable Energy Agency Assembly**
([UN](#) - January 14)

Upcoming Congressional Hearings (January 17-20, 2023)

Senate

No relevant Senate hearings.

House of Representatives

No relevant Senate hearings.

Federal Agency Climate News

The White House

[Vice President Harris Convenes Climate Leaders at the White House](#) (January 12)

Department of Energy

[U.S. Department of Energy Announces \\$42 Million to Develop More Affordable and Efficient Advanced Electric Vehicle Batteries in America](#) (January 10)

[Biden-Harris Administration Releases First-Ever Blueprint to Decarbonize America’s Transportation Sector](#) (January 10)

Environmental Protection Agency

[EPA Releases Updated Legal Guidance on Identifying, Addressing Cumulative Impacts to Advance Environmental Justice, Equity](#) (January 11)

[Biden-Harris Administration Announces Availability of \\$100 Million through Inflation Reduction Act for Environmental Justice Grants](#) (January 10)

Department of Interior

[Assistant Secretary Trujillo Highlights Bipartisan Infrastructure Law Drought Resilience Investments in Colorado](#) (January 13)

[Interior Department Takes Steps to Strengthen Offshore Clean Energy Development](#) (January 12)

Funding Opportunities

[Key Deployment Challenges for Offshore, Land-Based and Distributed Wind](#)

Department of Energy

Close Date: March 10, 2023

[Regional Initiative to Accelerate Carbon Capture, Utilization, and Storage Deployment](#)

Department of Energy

Close Date: February 2, 2023

[Long-Duration Energy Storage Demonstrations](#)

Department of Energy

Close Date: March 3, 2023

[Resilient and Efficient Codes Implementation](#)

Department of Energy

Close Date: March 27, 2023

<p>Environmental Justice Collaborative Problem-Solving Cooperative Agreement Program</p> <p>Environmental Protection Agency</p> <p>Close Date: April 10, 2023</p>	<p>Environmental Justice Government-to-Government Program</p> <p>Environmental Protection Agency</p> <p>Close Date: April 10, 2023</p>
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Comment Opportunities

<p>Supplemental Methane Rule</p> <p>Environmental Protection Agency</p> <p>Close Date: February 13, 2023</p> <p>Green Guides for the Use of Environmental Marketing Claims</p> <p>Federal Trade Commission</p> <p>Close Date: February 21, 2023</p>	<p>Renewable Fuel Standard Program</p> <p>Environmental Protection Agency</p> <p>Close Date: February 10, 2023</p>
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Upcoming Events

<p>The Latest on the Ground in Sacramento and the Role of Climate Change in Fueling Extreme Weather</p> <p>The Washington Post</p> <p>Tuesday, January 17, 12:00 PM EST</p> <p>Land and Ocean Conservation</p> <p>The Washington Post</p> <p>Wednesday, January 18, 3:00 PM EST</p>	<p>Are Small-Scale LNG Export Facilities Under-Regulated in the US?</p> <p>The University of Texas at Austin Energy Institute</p> <p>Tuesday, January 17, 12:30 PM EST</p> <p>Wind Energy Accelerating the Clean Energy Transition</p> <p>The U.S. Conference of Mayors</p> <p>Thursday, January 19, 7:30 AM EST</p>
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