



July Recap

Speaking Sustainability - Legal & Regulatory Updates

Akin's Speaking Sustainability newsletter provides a monthly digest of key news items and other relevant information on significant legal and regulatory developments in the continuum of sustainability issues, including ESG-related considerations.

Akin also maintains three trackers to help keep you up to date in between our newsletters:

- **Sustainability Legislation & Regulation Monitor** covers the latest sustainability-related legal and regulatory developments across the United States, which can be searched by state or topic.
- **EPA Deregulation Tracker** logs the environmental regulations EPA plans to reconsider and provides a current status of the changes underway.
- **Trump Executive Order Tracker** keeps up with the fast pace of executive orders issued by the Trump administration.

As a reminder, you can also find our earlier newsletter, other alerts and blog updates at **Speaking Sustainability**.

Key Sustainability Highlights

1. ESMA Issues Instructive Guidance Addressing Greenwashing

The European Securities and Markets Authority (ESMA) issued a **thematic note** (guidance document) addressing the risks of greenwashing and providing guidance on making sustainability-related claims that are “clear, fair, and not misleading.” ESMA’s guidance highlights for private market fund managers the risk of stakeholders misinterpreting sustainability-related claims, particularly given the complexity of sustainability information. The document further offers valuable, practical examples of “do’s and don’ts” on claims on environment, social and governance (ESG) credentials.

- The thematic note outlines four non-binding but instructive principles:

- Accurate: Claims should fairly and accurately reflect sustainability attributes, avoiding exaggeration, omissions or “cherry-picking,” vague language or inconsistent terminology.
- Accessible: Information should be clear and easy to find, offering appropriate detail without oversimplifying, with layered substantiation where needed or appropriate.
- Substantiated: Claims should be backed by credible data, sound methodology and transparent assumptions. Limitations of information, data and metrics used in relation to a sustainability claim, and the basis for any comparisons, should be disclosed (i.e., comparisons should be on a “like with like” basis).
- Up to Date: Claims should rely on current data, with any material changes disclosed promptly.

2. California Delays Vote on “Polluters Pay” Legislation

California lawmakers have decided to postpone the “Polluters Pay” legislation for this year. The legislation (i.e., Senate Bill 684 and Assembly Bill 1243) would have established a climate superfund program requiring fossil fuel companies to pay for climate-related damages.

- Supporters of the legislation suggest the delay provides more time to build support and momentum for the bill. The bill was converted into a “two-year bill,” thereby giving its backers additional time to muster support for it within the Assembly and Senate.
- Critics, including representatives from various industry groups and the California Chamber of Commerce, argue that the legislation could drive up transportation fuel costs and negatively impact the state’s economy.
- The legislation, if enacted, would create a program under CalEPA to identify the state’s largest polluters, whereupon regulatory authorities would undertake a climate cost study to enable the assessment of fees into a newly established fund maintained by the state’s treasury. Those funds would then be used for qualified expenditures, such as projects related to wildfire recovery, energy efficiency upgrades, community resilience infrastructure and other climate-related efforts.
- Similar laws have been adopted in Vermont and New York and are currently subject to legal challenges by federal authorities.

3. SEC Asks 8th Circuit to Rule on Biden-era Climate Disclosure Rule

In a status report recently submitted to the U.S. Court of Appeals for the Eight Circuit, the U.S. Securities and Exchange Commission (SEC) asked the Court to rule on the fate of the SEC climate disclosure rules implemented during the Biden administration. The SEC, which has stated it will no longer defend the disclosure rule against challenges from Republican-led states and business groups, requested the Court lift the current stay on the litigation and issue a ruling.

- The SEC argued that the case has already been fully briefed and that a ruling would help clarify whether the now-Republican-majority commission must formally rescind or revise the climate disclosure regulations.

- The agency noted that the Court’s ruling would likely heavily influence how the SEC proceeds in relation to the final rule, although the agency declined to say whether it would uphold the climate disclosure rule if the Court ruled against those challenging the rule.
 - This request for a ruling follows a request by the Eighth Circuit in April in which it asked the SEC to outline its stance now that it has decided not to defend the regulations.
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Key Environment Developments

Significant Cuts to IRA Clean Energy Tax Credits Included in Enacted Reconciliation Bill *(Akin)*

Akin discusses the significant changes to clean energy industry, with a close look at its impact on tax credits, as a result of the enactment of the “One Big Beautiful Bill Act.”

NEPA Is the Spotlight: FERC Overhauls Its NEPA Guidance to Streamline Permitting Days Before One Big Beautiful Bill Act Updates the Statute *(Akin)*

Akin analyzes the updated guidance and rules recently issued by the Federal Energy Regulatory Commission (FERC) and the U.S. Department of Energy (DOE) in relation to the National Environmental Policy Act (NEPA) that will impact the permitting process for energy infrastructure projects.

The EU’s CSRD and CSDDD Compliance Playbook Is Being Rewritten (Again) *(Akin)*

Akin reviews the recent proposals intended to scale-back the scope and burden of reporting pursuant to the European Union’s (EU) Corporate Sustainability Reporting Directive (CSRD) and Corporate Sustainability Due Diligence Directive (CSDDD).

CARB Publishes FAQs: More Questions than Answers? *(Akin)*

The California Air Resources Board (CARB) recently held its first public workshop regarding the state’s corporate disclosure laws (SB 253 and SB 261). According to information shared during the workshop, the agency expects to publish definitive rules by year-end. In addition, CARB has published a set of frequently asked questions (FAQs) in relation to the disclosure laws.

Key Social Developments

Beyond the Strikes: How AI Is Reshaping the Media & Entertainment Landscape—and How Global Regulators Are Responding *(Akin)*

Akin discusses the evolving role of artificial intelligence (AI) in the media and entertainment

industries following the 2023 labor strikes by the Writers Guild of America (WGA) and Screen Actors Guild-American Federation of Television and Radio Artists (SAG-AFTRA).

White House Issues Long-Awaited AI Action Plan and Accompanying Executive Orders (*Akin*)

On July 23, 2025, the Trump administration released its long-awaited AI Action Plan to establish U.S. leadership in AI, outlining over 100 policy directives issued to a broad swath of federal agencies.

Like Looking in a Mirror - How HR Data and AI Can Help Companies Improve Their Corporate Social Responsibility (*The Guardian*)

Businesses are utilizing AI and machine learning-led statistical analysis to improve transparency around company policies and analyze the company's methodology used to measure its performance against ESG criteria.

Key Governance Developments

Glass Lewis Announces Updates to 2026 Pay-for-Performance Model: What Boards and Practitioners Need to Know (*Akin*)

Akin discusses a recent announcement from Glass Lewis that provides a high-level preview of changes it plans to make to its pay-for-performance (P4P) model for the 2026 proxy season.

Texas Passes Landmark Law Regulating Proxy Advisors: What Companies Need to Know (*Akin*)

On June 20, 2025, Gov. Greg Abbott (R-TX) signed SB 2337, a new law that significantly alters the landscape for proxy advisory firms providing services to shareholders of Texas companies. At least two proxy advisory firms are challenging the law's constitutionality.

How Governance Teams Are Harnessing AI for Smarter Board Communications (*Governance Intelligence*)

While AI tools are increasingly utilized by boards to enhance decision making, streamline communication and improve efficiency, decision-makers must also remain cognizant of risks to ethical responsibility, accountability or oversight.

Upcoming Sustainability Events

Capital, Compliance & Climate

Cushman & Wakefield

Mumbai, India

August 5, 2025

Amplify Americas: Finance, Sustainability, and Risk

Workiva

Washington, D.C.

September 8-10, 2025

Resilience, Stability & Digital Innovation: Investing in Infrastructure

GRESB

London, U.K.

September 9-10, 2025

Sustainable Debt Americas 2025

Environmental Finance

New York, NY

September 19, 2025

Climate Week NYC 2025

Climate Group

New York, NY

September 21-28, 2025

Akin's Sustainability Practice

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Questions?

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