

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

- **[House Democrats Launch Sustainable Investing Caucus](#)** (*The Hill*)
On January 25, House Democrats—including Reps. Sean Casten (D-IL), Juan Vargas (D-CA), Bill Foster (D-IL), Raul Grijalva (D-AZ), Brad Sherman (D-CA) and Emanuel Cleaver (D-MO)—announced the establishment of a sustainable investing caucus. While the newly focused caucus will focus on environmental, social and governance (ESG) investment, House Republicans are expected to scrutinize ESG policies.
- **[Republicans Vow to Probe U.S. Banks and Asset Managers' 'ESG Agenda' In Congress](#)** (*Financial Times*)
Rep. Andy Barr (R-KY)—Chair of the House Financial Services Subcommittee on Financial Institutions and Monetary Policy—is expected to lead efforts to push back on banks and asset managers about their ESG policies. Specifically, the chair expressed concern that American banks have been “co-opted by the intolerant left that is intolerant of diversity.”
- **[E&C Republicans Elevate Climate in Subcommittee Shakeup](#)** (*E&E News*)
On January 25, House Energy and Commerce (E&C) Republicans released subcommittee leadership and membership assignments. Of note, Rep. Jeff Duncan (R-SC) will serve as chair of the Subcommittee on Energy, Climate and Grid Security and Rep. Bill Johnson (R-OH) will lead the Subcommittee on Environment, Manufacturing and Critical Minerals. With newly named

subcommittees, House GOP members noted the “changes are meant to highlight and elevate policy areas they intend to focus over the next two years.”

- **Republicans Insist They Have a Climate Plan** (*E&E News*)
The newly emboldened House Republicans are expected to “vote on a series of bills taking aim at existing federal regulations the GOP believes is stifling domestic clean energy production and innovation.” The focus of the legislative package will include permitting reform and an overhaul of the National Environmental Policy Act. This anticipated bill will seek to reconcile differences between “climate-conscious voters and powerful business interests that want Republicans to act on climate” and the GOP’s aversion to “sweeping federal mandates” or increased spending.
- **Remarks by Secretary of the Treasury at Green Climate Fund Agriculture Site** (*Department of Treasury*)
Secretary of the Treasury Janet Yellen spoke at the Green Climate Fund Agricultural Site on January 24, 2023. Detailing the critical need to address food security and climate adaptation, Sec. Yellen asserted the United States’ commitment to ensuring the Green Climate Fund has adequate resources. She concluded, calling for a sustained partnership between Africa and the U.S.
- **New Technique from U.S. National Lab Promises to Strip Carbon Dioxide Emissions from Power Plants and Factories at Record-Low Cost** (*CNBC*)
A new technique—discovered by the Pacific Northwest National Laboratory—revealed a low-cost means of capturing CO₂. The process only costs \$39 per metric ton, serving as the “cheapest technique for this kind of carbon capture ever reported in a peer-review scientific journal.” Interestingly, “industrial processes such as making iron, steel, cement, fertilizer, pulp and paper, and bioenergy could all reduce their carbon dioxide emissions with this new technique.”
- **Competition Heats Up for U.S. Direct Air Capture Program** (*E&E News*)
Competition for \$3.5 billion in federal funds to support four direct air capture (DAC) facilities is increasing, with two startups and two universities signaling interest. California’s CarbonCapture Inc. and North Carolina’s Sustaera Inc. are slated to throw their hats in the ring, as well as the University of Houston and the University of Michigan. Other organizations, such as Microsoft and Stanford University, are still considering submitting bids. The deadline to submit letters of intent is February 17 with full applications being due in mid-March.

Local

- **New York Showdown Imminent as Big Names Submit Their Offshore Wind Bids** (*Offshore Wind Biz*)
With Gov. Kathy Hochul’s (D-NY) recent announcement of the state’s third competitive offshore wind solicitation, big names—including Ørsted and Eversource, Equinor and bp, RWE and National Grid, and Invenergy and energyRe—have expressed interest. Ørsted and Eversource have included multiple bids as its consortium is already developing New York’s “first offshore wind farm.” Further, Equinor and bp’s bid would provide “New York with renewable energy from the Beacon Wind 2 lease area located approximately 60 miles off the eastern tip of Long Island.” Meanwhile, Community Offshore Wind—which is a joint effort between RWE and National Grid—submitted a bid to develop a “1.3 GW offshore wind farm.” Finally, Invenergy and energyRe’s joint venture proposed “delivering a 2.1 GW project.”
- **Illinois Passes Sustainable Aviation Fuel Tax Credit** (*Argus*)
Illinois recently passed a tax credit for “every gallon of [sustainable aviation fuel (SAF)] sold to or used by an air carrier in Illinois from 1 June 2023 to 1 June 2033.” The credit differs from those offered in California, Oregon and Washington as it is only extended to airlines “operating in the state that buy the fuel—not to producers of the fuel.” Ultimately, the SAF tax credit will lower the cost of SAF used at airports in the state.

- **States Reimagine Power Grids for Wind and Solar Future** (*Pew Trusts*)
States across the country are investing in “transmission lines, substations, and transformers needed to get [renewable electricity] from wind farms and solar plants into homes and businesses.” For example, Gov. Jay Inslee (D-WA) is supporting a bill to catalyze the permitting process for transmission projects. In Maryland, lawmakers previously passed a law directing the state’s Public Service Commission to implement “goals of decarbonization, renewable energy, equity, and other factors into its distribution system planning process.” Further, lawmakers in New Mexico established the Renewable Transmission Authority to bolster electric transmission and storage efforts.
- **State Water Deliveries to Surge—Highest in 6 Years** (*Cal Matters*)
Officials from the Department of Water Resources announced that water deliveries from California’s “aqueduct will be increased by 30 percent, the highest amount for January that growers and Southern California cities have received in six years.” This is a result of increased reservoirs, snowpacks and river flows from recent storms. However, the Department of Water Resources Director noted that the increased deliveries will not guarantee a wet year.
- **California Bill Would Mandate Corporate Emissions Disclosures** (*Politico*)
Sen. Scott Wiener (D-CA) introduced the California Climate Corporate Data Accountability Act to “require all companies earning at least \$1 billion in revenue and doing business in the state to provide information on their global carbon footprints starting in 2026.” This proposal is more stringent than the proposed Securities and Exchange Commission (SEC) rule and would apply to approximately 5,400 companies doing business in California. Moreover, New York lawmakers are pursuing similar legislation.
- **As the Colorado River Shrinks, Washington Prepares to Spread the Pain** (*The Seattle Times*)
With the anticipation of the federal government imposing water supply cuts on Colorado, New Mexico, Utah, Wyoming, Arizona, California and Nevada, the Department of the Interior (DOI) has asked states to create a voluntary plan to reduce water use. However, negotiators are not convinced the seven aforementioned states will come to a consensus, compelling the DOI to “break from the century-long tradition of states determining how to share the [Colorado River’s] water.”
- **Transition to Energy-Efficient Homes on the Docket for Oregon Lawmakers** (*KGW8*)
Oregon legislators—including Rep. Pam Marsh (D-OR) and Sen. Kate Lieber (D-OR)—are pursuing legislation to bolster the efficiency of the state’s buildings and increase their climate resilience. Part of this effort includes the legislators’ push to adopt heat pumps, create new, updated energy efficiency regulations for large commercial buildings, and prohibit fossil fuel use in most state-run facilities. Finally, the lawmakers are working on developing a navigation system to “help Oregonians wade through the various state and federal tax credits” related to energy efficiency.

International

- **EU Reaches Provisional Agreement on Carbon Import Charge** (*Akin Gump International Trade Alert*)
The European Union (EU) legislators recently “reached a provisional agreement on a regulation for a Carbon Border Adjustment Mechanism (CBAM).” If approved, CBAM will be effective on October 1, 2023 and will “require importers to the EU of covered carbon-intensive products to pay a charge for the carbon embedded in such products identical to the charge imposed on EU producers under the EU emissions trading system (ETS).”
- **Climate Change May Usher in a New Era of Trade Wars** (*The New York Times*)
As countries seek to address climate change, countries are embracing “dramatically different policies toward industry and trade, bringing governments into conflict.” As countries pursue climate-related subsidies, tariffs and other policies, critics warn that “these policies often put foreign countries and companies at a disadvantage, as governments subsidize their own industries or charge new tariffs on foreign products.”

- **EU Must Answer U.S. Clean Energy Subsidies, Commissioner Says on Washington Visit** *(Reuters)*
EU Internal Market Commissioner outlined that the EU is seeking an expedited deal with the U.S. to “resolve a dispute over U.S. electric vehicle tax credits.” However, the Commissioner noted that the EU is pursuing its own climate-related policies to keep investment in Europe. Specifically, the Commissioner explained that the EU law would “draw inspiration” from the Inflation Reduction Act and said he is “encouraged by the formation of a U.S. -EU task force.”
- **EU Prepares to Ban Greenwashing** *(Energy Monitor)*
The European Consumers Organization (BEUC) and the European Commission are collaborating to develop a greenwashing law to regulate companies’ claims that “products are ‘green,’ ‘eco,’ or ‘environmentally friendly’ with no factual basis.” While the law seeks to oblige companies to substantiate environmental claims against a standard methodology, the anticipated proposal has been delayed as debates arose around what standard methodology should be used. However, the EU is expected to utilize the Product Environmental Footprint (PEF), which utilizes a “life cycle analysis to measure the environmental performance of a product throughout the value chain.”
- **Plastic Treaty Progress Puts Spotlight on Circular Economy** *(United Nations)*
The Executive Secretary of the Intergovernmental Negotiating Committee Secretariat Jyoti Mathur -Filipp called for a “life cycle approach” to addressing how plastic products are produced and distributed. While he acknowledged the importance of recycling, Mathur-Filipp noted that it will not solely end plastic pollution and urged for systemic change. As such, Mathur-Filipp stressed the importance of the global resolution to end plastic pollution, approved in the fifth session of the United Nations Environmental Assembly last March.
- **Africa Objects to US Chairing UN Climate Fund, Citing Unpaid \$2 Billion** *(Climate Home News)*
Developed countries encouraged the U.S. Treasury’s Victoria Gunderson to lead the United Nations (UN) Climate Fund’s deliberations in 2023. However, a Kenyan environmental official—Pacifica Ogola—officially objected to the appointment. In the objection, Ogola pointed to the failure of the United States to deliver on a \$2 billion pledge under President Obama and noted that neither Presidents Trump or Biden contributed to the fund.
- **Japan Sets Carbon Capture Roadmap** *(Reuters)*
Japan’s Ministry of Economy, Trade and Industry recently set a target of annually storing 6-12 million tons of carbon dioxide by 2030. The roadmap—focused on carbon capture and sequestration (CCS)—seeks to assist the country in “achieving its goal of carbon neutrality by 2050.” Moreover, the Ministry is interested in establishing legislative frameworks to “allow companies to launch full-scale CCS operations from 2030.”
- **India Planning to Classify Clean Tech to Attract Investors** *(Asia Financial)*
India’s forthcoming proposal will “classify economic activities and technologies into sustainable and non-sustainable categories to help investors looking for green projects.” The Indian government is hoping to “attract more funds and give investors an extra layer of comfort.”

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

“The way the United States has actually lowered its carbon emissions has been through the higher use of natural gas, so I think energy and climate have a hand-in-hand work-along [...] I look forward to working on the climate issues as well, but not at the point that we jeopardize American energy dominance.”

- Rep. Jeff Duncan (R-SC) *discussing his role as Chair of the Subcommittee on Energy, Climate and Grid Security*
([E&E News](#) – January 26)

“We already see the impact: a pull factor for European investment towards the U.S. [...] Now Europe must develop its own policy approach to secure its industrial clean tech basis.”

- EU Internal Market Commissioner Thierry Breton *in his remarks to the Center for Strategic and International Studies*
([Reuters](#) – January 27)

Upcoming Congressional Hearings (January 30 – February 3, 2023)

Senate

[DOE's Infrastructure Investment and Jobs Act Implementation](#)

Senate Energy and Natural Resources

Thursday, February 2, 10:00 AM

366 Dirksen Senate Office Building

House of Representatives

[American Energy Expansion](#)

House Energy and Commerce

Tuesday, January 31, 11:00 AM EST

2123 Rayburn House Office Building

Federal Agency Climate News

The White House

[Readout of the Executive Meeting of the National Academy of Sciences' Roundtable on Macroeconomic and Climate-related Risks and Opportunities](#) (January 25)

Department of Energy

[Biden-Harris Administration Announces \\$47 Million to Develop Affordable Clean Hydrogen Technologies](#) (January 27)

[U.S. Department of Energy Awards \\$118 Million to Accelerate Domestic Biofuel Production](#) (January 26)

Funding Opportunities

[Hydrogen Fuel Shot](#)

Department of Energy

Close Date: April 28, 2023

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

Department of Energy

Close Date: March 10, 2023

[Energy Efficiency and Conservation Block Grant Program](#)

Department of Energy

Close Date: July 31, 2023

[Long-Duration Energy Storage Demonstrations](#)

Department of Energy

Close Date: March 3, 2023

Regional Initiative to Accelerate Carbon Capture, Utilization, and Storage Deployment Department of Energy Close Date: February 2, 2023 Environmental Justice Collaborative Problem-Solving Cooperative Agreement Program Environmental Protection Agency Close Date: April 10, 2023	Resilient and Efficient Codes Implementation Department of Energy Close Date: March 27, 2023 Environmental Justice Government-to-Government Program Environmental Protection Agency Close Date: April 10, 2023
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Comment Opportunities

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

Global Update on Energy and Climate The Center for Strategic and International Studies Tuesday, January 31, 2:00 PM EST The Vision for Adapted Crops and Soils: Focusing on the Impact of Climate Change in Africa The Center for Strategic and International Studies Wednesday, February 1, 10:00 AM EST	Integration of Distributed Energy Resources (DERs) onto the Grid with XM and PJM The United States Energy Association Wednesday, February 1, 10:00 AM EST Cost and Performance Baseline for Fossil Energy Plants Volume 1: Bituminous Coal and Natural Gas to Electricity The United States Energy Association Thursday, February 2, 1:00 PM EST
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[Innovating Out of the Climate Crisis: Carbon Emissions](#)

The American Security Project

Wednesday, January 25, 12:30 PM EST

[Annual State of Energy Industry Forum](#)

The United States Energy Association

Thursday, January 26, 9:00 AM EST

[Advancing the Clean Energy Transition in 2023](#)

The Carnegie Endowment for International Peace

Wednesday, January 25, 1:00 PM EST

For more information, please contact your regular Akin Gump lawyer or advisor, or:

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