

# Climate Policy Update

**Akin Gump**  
STRAUSS HAUER & FELD LLP

February 13, 2023

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:

## Contents

[National News](#)

[Local News](#)

[International News](#)

[Quotes of the Week](#)

[Upcoming Congressional Hearings](#)

[Federal Agency Climate News](#)

[Funding Opportunities](#)

[Comment Opportunities](#)

[Upcoming Climate Events](#)

## National

- **[Biden Races to Meet 2035 Climate Goals](#)** (*E&E News*)  
President Biden delivered the State of the Union and outlined his intentions for the United States' energy transition. He noted that "oil and gas will be needed "for a while," although he criticized "major oil and gas companies for posting \$200 billion in profits for 2022—and he called for quadrupling the tax on corporate stock buybacks." However, energy experts noted that an expedited power grid buildout, rapid approval of public lands and waters projects, and legislation to reform the permitting process are necessary to meet the President's ambitious climate change goals.
- **[EPA's Refinery Exemptions Denial Not Subject to Congressional Review Act, GAO Says](#)** (*Politico*)  
The Government Accountability Office (GAO) determined that the Environmental Protection Agency's (EPA) "denial of exemptions for small refineries under the Renewable Fuel Standard last year does not constitute a rule and therefore is not subject to the Congressional Review Act." The GAO came to this conclusion at the request of Sens. Bill Hagerty (R-TN), Shelley Moore Capito (R-WV) and Roger Wicker (R-MS). While the EPA previously contested that the aforementioned action was not a rulemaking, the senators argued that the effort was "an agency statement of future effect that is designed to implement, interpret, and prescribe law and policy."
- **[The Fight to Define Green Hydrogen, with Billions of Dollars at Stake](#)** (*The Wall Street Journal*)  
Some of the largest energy companies are arguing with renewable energy companies over what qualifies as green energy to receive Inflation Reduction Act tax credits. The eligibility rules for the hydrogen tax credits included in the Inflation Reduction Act are being drafted by the Internal Revenue Service (IRS) and the Treasury Department and are expected to be finalized in the coming months.

As many proposed clean hydrogen projects utilize electrolyzers—which consume large quantities of energy—clean energy firms are calling on the IRS to require companies to “effectively prove they are using green power.”

- **[Can Congress Find Consensus on Mining Overhaul](#)** (*E&E News*)

During a House Natural Resources Subcommittee on Oversight and Investigations hearing, nearly the entire group of lawmakers expressed support for reforming U.S. mining laws. While the GOP members focused on lengthy permitting processes and environmental regulations hindering domestic mining, democrats called for the responsible sourcing of minerals. Ultimately, the mutual interest in addressing the critical mineral crisis may serve as a pathway to a bipartisan permitting overhaul.

## Local

- **[California is Wary of Taking This Big Step to Fight Climate Change. One Democrat Says It Makes Them ‘Hypocrites’](#)** (*The San Francisco Chronicle*)

California Sen. Lena Gonzalez (D-CA) introduced Senate Bill 252 to reallocate the state’s “\$11 billion worth of investments in fossil fuel companies” toward catalyzing renewable energy deployment. The bill would compel the California Public Employees’ Retirement System to cease investments in fossil fuel companies and “divest all their holdings in the largest 200 companies by 2030.” Notably, Gov. Gavin Newsom (D-CA) has been silent on this bill and the California Teachers Association is monitoring its progression.

- **[Governor Newsom Calls Out Big Oil on Continued Push for Drilling in Neighborhoods](#)** (*Governor Gavin Newsom*)

In response to a referendum on Senate Bill 1137, Gov. Gavin Newsom (D-CA) reiterated his support for the effort to “keep oil wells 3,200 feet from homes, schools, and parks.” Specifically, the Governor argued that oil companies are prioritizing profits over public health, outlining that “drilling results in more kids getting asthma, more children born with birth defects, and more communities exposed to toxic, dangerous chemicals.”

- **[Energy Department Will Lend \\$2 Billion to a Battery Component Maker](#)** (*The New York Times*)

The Department of Energy (DOE) announced a \$2 billion loan to Redwood Materials in Nevada to ramp up the production of electric vehicle batteries. The facility is expected to “support the production of more than one million electric vehicles a year” and will create approximately 3,400 construction jobs. Moreover, Redwood seeks to recycle old batteries in the future to reuse critical metals and further reduce U.S. reliance on foreign-produced materials.

- **[Vermont Joins Multi-State Effort to Create Regional Clean Hydrogen Hub in Northeast](#)** (*New York State Energy Research and Development Authority*)

Vermont recently joined a multi-state agreement along with New York, Connecticut, Maine, Massachusetts, New Jersey and Rhode Island to draft a proposal for the Bipartisan Infrastructure Law’s Regional Clean Hydrogen Hubs program. The Northeast Clean Hydrogen Hub was initially announced in March 2022 and continues to bolster a group of partners, including the 47 organizations and companies that recently joined in addition to the state of Vermont.

- **[Three Issues May Determine New York’s Clean Energy Future](#)** (*E&E News*)

Although Democrats control the gubernatorial and legislative arenas, New York is entering a period of uncertainty as it implements the Climate Leadership and Community Protection law. While Gov. Kathy Hochul (D-NY) and the state’s Climate Action Council have endorsed a cap-and-trade program, details of rolling out such a concept—such as a cap threshold, initial price charges, exemptions and where the money is allocated—are unclear. Moreover, Gov. Hochul’s budget plan included her support for the New York Power Authority (NYPA) to “build, own, and operate renewable power projects.” However, advocates of such a policy have criticized the Governor’s proposal. Finally, Gov. Hochul is expected to revive efforts to ban gas heat in certain, newly constructed buildings.

- **[Dominion ‘On Track’ with \\$9.8 Billion Virginia Offshore Wind Farm](#)** (*Reuters*)

Dominion Energy executives announced that its “\$9.8 billion offshore Virginia wind farm is on track

and budget,” and is now moving on to its environmental review process. The project is “designed to start 27 miles off the Virginia Beach shores, which would provide carbon-free power to more than 650,000 homes and businesses” and is expected to be complete by 2026. Dominion is additionally seeking to close its coal-only power generation facilities by the end of the decade.

- **Orphan Well Cleanup in Pennsylvania Underscores the Enormity of Task** (*Bloomberg*)  
Secretary of the Interior Deb Haaland recently announced the plugging of abandoned oil and gas wells in the Pittsburgh area with funding through the Bipartisan Infrastructure Law. While Pennsylvania’s Department of Environmental Protection Acting Director Richard Negrin explained that federal funding will support the state’s efforts to plug 235 wells in 2023, Pennsylvania contains “27,000 known abandoned oil wells” with the potential for more to be discovered.

## International

- **Costs Could Rise Even More in 2023—and Thousands of CEOs Blame Climate Change** (*CNBC*)  
A PwC survey revealed that “a majority of company leaders expect to see anywhere from a ‘moderate’ to ‘very large’ impact on costs due to climate change within the next year.” Specifically, climate-related occurrences have impacted crops, infrastructure, energy supply and the workforce, ultimately highlighting a link between climate change and inflation. However, the aforementioned survey detailed that only chief executive officers (CEOs) directly impacted by climate change are anticipated to take action accordingly.
- **EU Considers Push for Fossil Fuel Phasedown Ahead of COP 28** (*Reuters*)  
Ahead of the Conference of Parties 28 (COP 28), the European Union (EU) is considering “an agreement to phase down fossil fuels.” This agreement may include a shift from fossil fuels that are burned without utilizing technology to capture the associated emissions. Further, the agreement has not been settled, as some EU countries are pushing for more stringent language to expedite the phasing out of fossil fuels.
- **New French Law Will Blanket Parking Lots with Solar Panels** (*The Washington Post*)  
The Law for the Acceleration of Production of Renewable is expected to cross the finish line in France and will in part require solar panels to be built on top of parking lots larger than 16,000 square feet. This expansion may increase up to 8 percent of the country’s current electrical capacity and the law intends for the panels to serve the businesses and surrounding communities utilizing the parking lots. Additionally, the law seeks to make it “easier to build solar panels alongside highways and eases restrictions on wind power.”
- **Greener Trade, Investment Crucial to Tackle Climate Change in Asia Pacific** (*Economic Times*)  
The Asian Development Bank (ADB) outlined the need for greater investments in the Asia Pacific region and discussed “incorporating a separate chapter on efforts to mitigate environmental concerns in regional trade agreements.” These investments are pressing as Asia’s economic growth has resulted in increased greenhouse gas emissions in a region that is “more vulnerable to the effects of climate change than any other.”
- **Yellen Wants Bolder World Bank Steps on Climate Change, Global Issues** (*Reuters*)  
Treasury Secretary Janet Yellen called on the World Bank to outline bolder steps to navigate climate change. Moreover, Sec. Yellen characterized the current model of multilateral development banks as “insufficient” in addressing climate change. The Secretary identified various solutions and advocated for stronger incentives, concessional resources, and diagnostic tools to assist countries.
- **African Countries Most Committed to Climate Change** (*Business Insider*)  
A *U.S. News and World Report* outlined the African countries most committed to combating climate change in 2022 by analyzing investments in renewable energy sources, boosting access to resources and technology, and encouraging sustainable agriculture policies. The following African countries were determined to be the most committed to climate change: South Africa, Egypt, Kenya, Ghana, Cameroon, Zambia, Morocco, Tunisia and Algeria.

- **[What Africa Needs to Go Green is Finance](#)** (*Bloomberg*)  
Despite Africa’s abundant rare minerals and young population, the region needs financing to catalyze its green energy transition. Further, the continent’s renewable energy investments “fell to an 11-year low in 2021, comprising just 0.6 percent of the global total,” due to lender concerns about investing in “often politically or economically unstable countries with broken supply chains.” These investments are particularly vital, as Africa experiences some of the most significant impacts of climate change.
- **[NATO and Kuwait Hold Talks with Partners on Climate Change and Security](#)** (*North Atlantic Treaty Organization*)  
The North Atlantic Treaty Organization (NATO)-Istanbul Cooperation Initiative (ICI) Regional Center recently hosted a discussion centering on climate change solutions. At the event, “approximately sixty civilian and military personnel from NATO, allied countries and partner nations, as well as representatives from international organizations” considered emerging climate-related threats and opportunities arising from sustainable energy developments.

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

*“If we ignore it and don’t do anything about climate change, it will become a staggering cost [...] And it will have a huge impact not only on grocery bills, but many other aspects of our ordinary lives.”*

– **Suzi Kerr, Chief Economist at Environmental Defense Fund** ([CNBC](#) – February 7)

*“Last year we spent over \$52 billion on climate action [...] and yet we’re still investing over \$11 billion of our pension funds in fossil fuel companies. It makes no sense. It just makes us look like hypocrites.”*

– **State Sen. Lena Gonzalez** ([The San Francisco Chronicle](#) – February 12)

## Upcoming Congressional Hearings (February 13 – February 17, 2023)

### Senate

[Hearings to Examine the Future of Low Carbon Transportation Fuels](#)

#### Senate Environment and Public Works

Wednesday, February 15, 10:00 AM EST

406 Dirksen Senate Office Building

[Hearings to Examine Climate-Related Economic Risks and Their Costs to the Federal Budget and the Global Economy](#)

#### Senate Budget

Wednesday, February 15, 10:00 AM EST

106 Dirksen Senate Office Building

### House of Representatives

*No relevant House hearings.*

[Hearings to Examine the Impact of the Russian Federation's War in Ukraine on Europe and Global Energy Security One Year After the Invasion](#)

**Senate Energy and Natural Resources**

Thursday, February 16, 10:00 AM EST

366 Dirksen Senate Office Building

**Federal Agency Climate News**

**The White House**

[Remarks by Vice President Harris on Creating a Clean Energy Economy and Good-Paying, Union Jobs](#) (February 9)

**Department of Interior**

[Interior Department Welcomes New Biden-Harris Appointees](#) (February 10)

**Department of Energy**

[U.S. Department of Energy Announces \\$30 Million for Materials and Manufacturing to Lower Costs of Large Wind Turbines](#) (February 10)

[DOE Launches Foundation for Energy Security and Innovation](#) (February 9)

[Biden-Harris Administration Announces \\$74 Million to Advance Enhanced Geothermal Systems](#) (February 8)

**Environmental Protection Agency**

[EPA Seeks Input on Inflation Reduction Act Environmental and Climate Justice Program](#) (February 9)

**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

[Enhanced Geothermal Systems Pilot Program](#)

**Department of Energy**

Close Date: June 16, 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

[Resilient and Efficient Codes Implementation](#)

**Department of Energy**

Close Date: March 27, 2023

<p><a href="#"><u>Environmental Justice Collaborative Problem-Solving Cooperative Agreement Program</u></a></p> <p><b>Environmental Protection Agency</b></p> <p>Close Date: April 10, 2023</p>	<p><a href="#"><u>Environmental Justice Government-to-Government Program</u></a></p> <p><b>Environmental Protection Agency</b></p> <p>Close Date: April 10, 2023</p>
<p><b>Comment Opportunities</b></p>	
<p><a href="#"><u>Supplemental Methane Rule</u></a></p> <p><b>Environmental Protection Agency</b></p> <p>Close Date: February 13, 2023</p> <p><a href="#"><u>Green Guides for the Use of Environmental Marketing Claims</u></a></p> <p><b>Federal Trade Commission</b></p> <p>Close Date: February 21, 2023</p>	<p><a href="#"><u>Environment and Climate Justice Program</u></a></p> <p><b>Environmental Protection Agency</b></p> <p>Close Date: March 17, 2023</p>
<p><b>Upcoming Events</b></p>	
<p><a href="#"><u>2023 Winter Policy Summit</u></a></p> <p><b>The National Association of Regulatory Utility Commissioners</b></p> <p>Monday, February 13, 9:00 AM EST</p> <p><a href="#"><u>European Union Energy Security</u></a></p> <p><b>The Center for Strategic and International Studies</b></p> <p>Wednesday, February 15, 9:00 AM EST</p> <p><a href="#"><u>Tracking Water Resources from Space</u></a></p> <p><b>The Middle East Institute</b></p> <p>Wednesday, February 15, 10:00 AM EST</p> <p><a href="#"><u>Mitigating Climate Risk Through Localized Data</u></a></p> <p><b>The Brookings Institute</b></p> <p>Wednesday, February 15, 2:00 PM EST</p>	<p><a href="#"><u>How Extreme Heat is Impacting the U.S. and the World</u></a></p> <p><b>The Washington Post</b></p> <p>Tuesday, February 14, 2:00 PM EST</p> <p><a href="#"><u>Challenging China's Critical Mineral Dominance</u></a></p> <p><b>The Peterson Institute for International Economics</b></p> <p>Wednesday, February 15, 9:00 AM EST</p> <p><a href="#"><u>Future Generation: Exploring the New Baseline for Electricity in the Presence of the Inflation Reduction Act</u></a></p> <p><b>Resources for the Future</b></p> <p>Wednesday, February 15, 12:00 PM EST</p> <p><a href="#"><u>Keys to Climate Action: How Developing Countries Could Drive Global Success and Local Prosperity</u></a></p> <p><b>The Brookings Institute</b></p> <p>Thursday, February 16, 9:30 AM EST</p>

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

[Kenneth J. Markowitz](#)

[Dario J. Frommer](#)

[Stacey H. Mitchell](#)

[Christopher A. Treanor](#)

akingump.com