

Climate Policy Update

December 14, 2023

Good morning!

This is Akin's newsletter on climate change policy and regulatory developments, providing information on major climate policy headlines from the past three weeks and forthcoming climate-related events and hearings:

National

- **[New CFTC Guidelines Target Voluntary Carbon Markets](#)** (*E&E News*)

The Commodity Futures Trading Commission (CFTC) rolled out its “first-ever federal guidelines related to the credits that companies can purchase to “offset” their greenhouse gas emissions by financing climate action elsewhere.” Specifically, the guidelines call for companies to ensure that climate-related actions are based on credits that result in real slashes in greenhouse gas emissions.

- **[Democrats Work to Align Proposals on Permitting, Grid](#)** (*E&E News*)

As the potential for permitting reform dwindles, Democrats are aiming to address the country's grid. Of note, Sen. John Hickenlooper (D-CO) “wants to improve the patchwork electricity system,” while Sen. Martin Heinrich (D-NM) “wants tax credits for transmission projects,” and Sen. Sheldon Whitehouse (D-RI) “wrote a bill that would make it easier to build long-range, interregional lines.” On the House side, Reps. Mike Levin (D-CA) and Sean Casten (D-IL) are anticipated to release their grid proposal.

- **[Biden-Harris Administration Finalizes Standards to Slash Methane Pollution, Combat Climate Change, Protect Health, and Bolster American Innovation](#)** (*Environmental Protection Agency*)

The Environmental Protection Agency (EPA) issued a final rule to “sharply reduce methane and other harmful air pollutants from the oil and natural gas industry, including from hundreds of thousands of existing sources nationwide, promote the use of cutting-edge methane detection technologies, and deliver significant economic and public health benefits.”

- **[Department of Energy Releases Proposed Interpretive Guidance on Foreign Entity of Concern for Public Comment](#)** (*Department of Energy*)

The Department of Energy (DOE) issued proposed guidance and a request for public comment on the definition of “foreign entity of concern” (FEOC) as included in the Infrastructure Investment and Jobs Act (P.L. 117-58; IIJA) to “limit the participation of FEOCs within domestic battery supply chains, particularly within government-supported programs, and bolster the growth of domestic and friend-shored battery materials processing and manufacturing.”

- **[With Methane Rule Looming, Oil and Gas Drillers Launch Objections](#)** (*E&E News*)

In anticipation of the EPA's methane rule, the oil and gas industry has argued that "the policies clash with other federal standards and with state programs."

- **Highway Agency Finalizes Contentious Climate Rule** (*E&E News*)

The Department of Transportation's (DOT) Federal Highway Administration (FHA) "announced a sweeping greenhouse gas rule that will require state and local transportation officials to set declining emissions targets for road projects funded with federal money."

- **EPA Readies \$2B for Environmental Justice Grants** (*E&E News*)

The EPA rolled out "roughly \$2 billion for projects in underserved areas across the country to build clean energy and address climate change" through the Community Change grant program.

- **NASA Leadership to Participate in Global Climate Change Conference** (*NASA*)

National Aeronautics and Space Administration (NASA) leaders are slated to participate in the Conference of Parties 28 (COP28) for the first time. Specifically, NASA Administrator Bill Nelson "will participate in the first Space Agency Leaders' Summit, which aims to demonstrate a collective commitment toward strengthening global climate initiatives and promoting sustainable space operations."

State and Local

- **What California Accomplished at COP28** (*Gov. Gavin Newsom*)

Gov. Gavin Newsom (D-CA) led a delegation to the COP28 and "showcased California's climate leadership, built support for more urgent and ambitious global climate action, launched international partnerships, and elevated tribal solutions."

- **Governor Hochul Announced New \$45 Million Apprenticeship and Pre-Apprenticeship Clean Energy Training Initiative** (*Gov. Kathy Hochul*)

Gov. Kathy Hochul (D-NY) announced \$45 million in funds for the Apprenticeship and Pre-Apprenticeship Clean Energy Training Initiative to "expand the capacity of labor organizations to offer training as a pathway to clean energy careers."

- **Shapiro Says State Will Appeal Commonwealth Court's RGGI Decision** (*Pennsylvania Capital-Star*)

Early last week, Gov. Josh Shapiro (D-PA) announced that his administration "will appeal the Commonwealth Court's decision to block Pennsylvania from entering the Regional Greenhouse Gas Initiative (RGGI) program."

- **Blue Power: Will Ocean Waves be California's New Source of Clean Energy?** (*CalMatters*)

Gov. Newsom signed a law that "instructs state agencies to study the feasibility and impacts of capturing ocean movement to create power and report back to the legislature by January 2025."

- **New Jersey Banning Sale of New Gasoline-Powered Vehicles by 2035** (*CBS News*)

New Jersey recently announced that it "will prohibit the sale of new gasoline-powered vehicles by 2035 as part of an effort to improve air quality and reduce planet-warming pollutants." The rule will be effective on January 1, 2024, and follows suit from states such as California and New York.

- **Governor Hochul Announces \$100 Million in Environmental Bond Act Funding Now Available for Zero-Emission School Bus** *(Gov. Kathy Hochul)*

Gov. Hochul announced that \$100 million is now available for “zero-emission school buses under the historic \$4.2 billion Clean Water, Clean Air, and Green Jobs Environmental Bond Act of 2022.”

- **Governor Hochul Announces New York Awarded Nearly \$24 Million in Federal Funding to Strengthen and Modernize State’s Electric Grid** *(Gov. Kathy Hochul)*

Gov. Hochul announced that the DOE awarded New York State approximately \$24 million in funds through the Grid Resilience and Tribal Formula grant. The Governor touted that the funding “will provide support for New York projects that help ensure the reliability of the State’s power sector infrastructure and access to affordable and clean electricity for New Yorkers.”

International

- **In a First, Nations at the Climate Summit Agree to Shift from Fossil Fuels** *(New York Times)*

At COP28, “diplomats from nearly 200 countries approved a global pact that explicitly calls for transitioning away from fossil fuels like oil, gas, and coal that are dangerously heating the planet.”

- **What’s Missing from the COP28 Climate Deal** *(New York Times)*

While the culmination of COP28 includes a deal on reducing the use of fossil fuels, the pact does not address the “construction of new coal-burning power plants and specific commitments to help finance poorer nations’ energy transitions.”

- **Eye-Catching Climate Donations Put Spotlight on China at COP Climate Talks** *(E&E News)*

COP28 kicked off “with a parade of wealthy nations offering big-money pledges to help poorer countries cope with the ravages of a warming world – a surprise that turns up the pressure on countries like China to open their checkbooks.”

- **Republicans at COP28 to Focus on Emissions Drop, Fossil Fuels** *(E&E News)*

The House GOP outlined their objectives ahead of COP28, including pushing back against measures that may “stifle heavy-polluting industries,” as well as “celebrate the fact that U.S. emissions are falling and call out other countries that aren’t doing as well.”

- **Air-Conditioning Use Will Surge in a Warming World, U.N. Warns** *(New York Times)*

Sixty nations voluntarily agreed to “improve the efficiency of new air-conditioners by 50 percent and reduce greenhouse gas emission related to those cooling machines by almost 70 percent” at COP28.

- **Global Fossil Fuel Emissions Are Rising, Report Finds** *(New York Times)*

A peer-reviewed analysis published at COP28 revealed that “despite years of commitments from countries to slash the emissions of greenhouse gases that are warming the planet, they are still on the rise.”

- **The Climate Summit Embraces A.I., With Reservations** *(New York Times)*

At COP28, researchers have illustrated that artificial intelligence (AI) “could accelerate the world’s efforts to combat climate change and adapt to rising temperatures.” However, others have “voiced worries about AI’s potential to devour energy, and harm humans and the planet.”

- **Italy Approves Measures to Boost Energy Security, Renewable Power** (*Reuters*)

Italy greenlit a “decree to boost its energy security and renewable power production, with the minister for ecological transition saying the package was expected to trigger 27.4 billion euros (\$29.89 billion) in investments.”

- **Vietnam Relied on Environmentalists to Secure Billions. Then it Jailed Them.** (*New York Times*)

Vietnam previously accepted “a multibillion-dollar deal by a group of nine wealthy nations last year to work on reducing its use of coal” and agreed to confer with nongovernmental organizations. However, activists are concerned that the Vietnamese government “has arrested several prominent environmentalists from those organizations who shaped policies that helped secure the funding.”

- **IMF Chief Demands End to ‘Business as Usual’ Ahead of COP28** (*Reuters*)

Kristalina Georgieva—head of the International Monetary Fund (IMF)—urged for “an end to ‘business as usual’” at the upcoming climate conference. She specifically warned that “climate-damaging carbon emissions needed to fall between 25% and 50% by 2030 but pledges so far would only lead to a ‘meager’ 11% cut.”

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

“Should legislative leaders choose to engage in constructive dialogue, the Governor is confident we can agree on a stronger alternative to RGGI – if they take their ball and go home, they will be making a choice not to advance commonsense energy policy that protects jobs, the environment, and consumers in Pennsylvania.”

— *Manuel Bonder, Gov. Shapiro’s Spokesperson* ([*Pennsylvania Capital-Star*](#) – November 21)

Congressional Hearings (December 11 - December 15, 2023)

Senate

No relevant Senate hearings.

House of Representatives

No relevant House hearings.

Federal Agency Climate News

Department of Energy

DOE Launches New Office to Coordinate Critical and Emerging Technology (December 12)

U.S. Department of Energy Announces Clean Energy Achievements at COP28 (December 8)

DOE Announces \$42 Million for Inertial Fusion Energy Hubs (December 7)

At COP28, U.S., Canada, France, Japan, and UK Announce Plans to Mobilize \$4.2 Billion for

Environmental Protection Agency

Biden-Harris Administration Finalizes Standards to Slash Methane Pollution, Combat Climate Change, Protect Health, and Bolster American Innovation (December 2)

White House

Full Charge: The Economics of Building a National EV Charging Network (December 11)

Reliable Global Nuclear Energy Supply Chain
(December 7)

Joint Statement by the U.S. Department of Energy, U.S. Department of Transportation and Transport Canada on Taking Action to Reduce Rail Sector Emissions (December 6)

At COP28, Net Zero World Showcases Progress in Transforming Emerging Energy Economies
(December 6)

At COP28, Countries Launch Declaration of Intent on Clean Hydrogen (December 6)

At COP28, Countries Launch Declaration to Triple Nuclear Energy Capacity by 2050, Recognizing the Key Role of Nuclear Energy in Reaching Net Zero
(December 1)

Department of Energy Releases Proposed Interpretive Guidance on Foreign Entity of Concern for Public Comment (December 1)

U.S. Department of Energy Announces \$3 Million to Transition Tribal Colleges and Universities to Clean Energy (November 30)

Biden-Harris Administration Announces Actions to Strengthen Clean Energy Supply Chains and Accelerate Manufacturing in Energy and Industrial Communities (November 27)

Remarks by Vice President Harris Delivering the U.S. Statement at COP28 (December 2)

Remarks by Vice President Harris at COP28 Leaders' Session, "Fast-Tracking the Just, Equitable, and Orderly Energy Transition"
(December 2)

Biden-Harris Administration Leverages Historic U.S. Climate Leadership at Home and Abroad to Urge Countries to Accelerate Global Climate Action at U.N. Climate Conference (COP28)
(December 2)

Statement from President Joe Biden on the United Arab Emirates Creation of the ALTERRA Fund (December 1)

Marking the Two-Year Anniversary of the Report on the Impact of Climate Change on Migration
(December 1)

Department of Interior

Biden-Harris Administration Announces Several New Water Conservation Agreements in California to Protect the Colorado River System
(December 13)

President Biden's Investing in America Agenda Provides \$16.5 Million to Support Tribes Impacted by Drought (December 12)

Interior Department Proposes Offshore Wind Sale in the Central Atlantic (December 11)

Assistant Secretary Estenoz Highlights Commitment to Boosting the Clean Energy Economy, Honoring Indigenous Communities at COP28 (December 5)

Biden-Harris Administration Approves Sixth Offshore Wind Project (November 21)

Funding and Comment Opportunities

Climate Pollution Reduction Grants

Environmental Protection Agency

Close Date: April 1, 2024

Transmission Siting and Economic Development Program

Battery Materials and Battery Manufacturing Grants

Department of Energy

Close Date: March 19, 2024

Department of Energy

Close Date: April 5, 2024

D.C. Climate Events

The Future of OPEC in a Clean Energy World

New America

Wednesday, December 13, 12:00 p.m. ET

Enhancing Energy Efficiency: How Technology is Cutting Carbon Emissions

The Hill

Thursday, December 14, 8:30 a.m. ET

Hydrogen as Part of the U.S. Decarbonization Plan

United States Energy Association

Thursday, December 14, 12:30 p.m. ET

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

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