

Climate Policy Update

December 11, 2024

Good morning!

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

National

Guthrie set to lead Energy and Commerce Committee (*PoliticoPro*)

Rep. Brett Guthrie (R-KY) has been recommended by House Republicans to chair the Energy and Commerce Committee, succeeding Cathy McMorris Rodgers, pending formal approval by the full conference. Guthrie, representing a coal-dependent region benefiting from green investments, could influence the Biden administration's climate agenda, balancing support for fossil fuels, clean energy and nuclear advancements in coal country.

The latest on spending, permitting, resource package talks (*E&E News*)

With only two weeks left in session, Congress is racing to finalize must-pass legislation, including a continuing resolution to prevent a government shutdown, disaster relief funding and the National Defense Authorization Act, which often carries energy and environmental provisions. Negotiations on permitting reform, led by Sen. Joe Manchin and Rep. Bruce Westerman, are gaining momentum, focusing on the Energy Permitting Reform Act and the proposed National Environmental Policy Act (NEPA) changes. However, disagreements over environmental safeguards and transmission provisions remain significant hurdles.

Electric co-ops want Republicans to preserve clean energy credits (*ClimateWire*)

The National Rural Electric Cooperative Association (NRECA) is urging Republicans to retain parts of the Inflation Reduction Act, including tax credits and funding for clean energy projects. Programs like the New ERA initiative have provided billions to help cooperatives invest in renewables and grid improvements, which NRECA sees as vital for rural communities.

Trump reg-cutter sets sights on NEPA (*E&E News*)

Vivek Ramaswamy, a leader in Trump's Department of Government Efficiency, tasked with government-downsizing, has criticized NEPA, arguing it delays infrastructure projects with excessive bureaucracy and litigation.

5 takeaways from the Biden carbon rule's big day at the DC Circuit (*ClimateWire*)

The U.S. Court of Appeals for the D.C. Circuit reviewed the Environmental Protection Agency's (EPA) proposed 2024 power plant emissions rule, questioning its reliance on carbon capture and storage (CCS) technology and potential conflicts with Supreme Court limits from *West Virginia v. EPA*. While judges scrutinized feasibility and legal authority, the Biden administration faces uncertainty as the incoming Trump

administration is expected to prioritize repealing the rule, aiming to reverse broader climate policies and reduce regulations impacting the energy sector.

Appeals court deals blow to EPA on smog *(E&E News)*

The 6th U.S. Circuit Court of Appeals struck down the EPA's disapproval of Kentucky's smog control plan and ruled that the federal "good neighbor" smog plan was improperly imposed on the state. The court found EPA's decision violated the Administrative Procedure Act due to flawed air pollution modeling and ruled that the case was a local matter, rejecting EPA's argument for jurisdiction in the D.C. Circuit.

Supreme Court offers clues on new NEPA test *(EnergyWire)*

The Supreme Court appeared hesitant to endorse a strict rule limiting environmental reviews under NEPA during arguments in *Seven County Infrastructure Coalition v. Eagle County, Colorado*. While justices criticized both the industry's push for narrow analyses and opponents' calls for broader reviews, they signaled a likely move to overturn the lower court's decision and clarify standards, possibly reaffirming prior rulings that restrict agencies' obligations to "reasonably foreseeable" effects.

The oil railway that launched a Supreme Court NEPA war *(GreenWire)*

The Supreme Court will hear a pivotal case concerning the proposed Uinta Basin Railway, which aims to connect Utah's oil-rich Uinta Basin to the national rail network, potentially boosting oil production but raising significant environmental concerns. Proponents argue the railway is critical infrastructure for economic growth, while opponents warn it could exacerbate pollution, increase oil spills and undermine NEPA's requirement to evaluate indirect impacts like climate change and public health.

US AI task force co-chair asks FERC to support co-located data centers – letter *(Reuters)*

House AI Task Force Co-chair Rep. Jay Obernolte (R-CA) urged the Federal Energy Regulatory Commission (FERC) to support the development of data centers directly connected to power plants, highlighting national security concerns and the global competition in artificial intelligence, according to a letter dated Dec. 5. Obernolte called on FERC to swiftly implement regulations that foster AI growth and address its substantial energy needs, including facilitating the establishment of co-located AI data centers.

State and Local

California to grant one-year reprieve from corporate emissions reporting penalties *(PoliticoPro)*

The California Air Resources Board announced they will not enforce the state's landmark corporate climate reporting law, SB 253, in its first year, allowing companies to avoid penalties for incomplete emissions reporting in 2026 if they make a good faith effort to collect relevant data.

California Energy Commission delays decision on profit cap for oil refiners *(EnergyWire)*

The California Energy Commission (CEC) is postponing its decision on a potential oil refiner profit cap and will instead issue a preliminary proposal in the spring. The delay is due to a broader strategy that incorporates new gas storage requirements for refiners, which Governor Gavin Newsom introduced during a special legislative session this fall, with the aim of addressing gas price spikes.

Hochul opens negotiations on Climate Superfund bill *(PoliticoPro)*

Gov. Kathy Hochul proposed amendments to New York's Climate Superfund bill, signaling potential support and opening negotiations before the end-of-year deadline. The bill aims to raise \$75 billion from oil companies

to address climate impacts, but concerns remain over proposed changes that could expand executive authority and adjust implementation timelines.

Business groups urge Hochul to veto climate funding bill (*PoliticoPro*)

New York business groups, including fossil fuel interests, are urging Gov. Kathy Hochul to veto the Climate Superfund bill, arguing it unfairly targets oil and gas companies for past emissions while raising affordability concerns. Proponents contend the \$75 billion measure holds companies accountable for climate damages instead of burdening taxpayers, as Hochul faces a decision by year's end.

International

In a shift, Biden to bar most fossil fuel financing overseas (*ClimateWire*)

President Joe Biden is expected to back restrictions on international public financing for oil and gas projects at an upcoming OECD meeting, aligning with earlier pledges to curb fossil fuel investments and redirect funds toward clean energy. This move, which could establish lasting climate policies ahead of the Trump administration, introduces emissions thresholds to limit U.S. Export-Import Bank funding for carbon-intensive projects and fulfill international commitments made under the Paris Agreement.

India outpaces China in green investments as renewables surge (*EnergyWire*)

India has surpassed China in clean technology funding, attracting \$2.4 billion in the third quarter, driven by efforts to expand domestic green manufacturing and reduce reliance on China. Despite this growth, India's clean tech sector still lags behind China overall and requires significant investment to meet its net-zero target by 2070.

What to Know About a Landmark Court Case (*New York Times*)

A landmark climate case at the International Court of Justice, led by Vanuatu, seeks to define nations' legal duties on climate action and hold polluters accountable. Originating from Pacific Island law students, it emphasizes climate justice and could influence global litigation and negotiations.

Check out below for key quotes, federal agency news and a look at the week ahead in congressional hearings and think tank events:

Quote of the Week

"If the manpower & cost dedicated to *regulating* new construction were allocated instead to *doing* new construction, we'd have a private infrastructure boom in the U.S. right now. The Empire State Building was completed in just 1 year, while modern infrastructure projects take much longer. A big reason why: the National Environmental Policy Act (NEPA). The law is only 5 pages, but it's been interpreted to require lengthy environmental impact statements that average 670 pages. This adds 1,500+ days to a project for paperwork & opens projects to nuisance litigation by activist groups: it's not unusual for a single project to face a dozen lawsuits. This is nuts. NEPA causes Americans to file paperwork & argue in court instead of building useful stuff."

-Vivek Ramaswamy ([X.com](#)) – December 9, 2024)

Congressional Hearings (December 9 - 13, 2024)

Senate

No relevant hearings.

House of Representatives

No relevant hearings.

Federal Agency Climate News

White House

[FACT SHEET: Biden-Harris Administration Leads by Example, Leveraging the Federal Government to Catalyze Clean Energy Jobs and Cut Costs and Pollution](#) (December 9)

Department of Energy

[Following FERC Notices, U.S. Department of Energy Provides Clarity to Status of LNG Export Authorization Requests](#) (December 10)

Department of Treasury

[U.S. Department of the Treasury Releases Final Rules on Investment Tax Credit to Produce Clean Power, Strengthen Clean Energy Economy](#) (December 4)

Funding and Comment Opportunities

[U.S.-Danish Floating Offshore Wind Energy Mooring and Anchoring Research and Development](#)

Department of Energy

Close Date: January 14, 2025

[Generation III+ Small Modular Reactor Pathway to Deployment](#)

Department of Energy

Close Date: January 17, 2025

[Oceans of Opportunity: U.S. Wave Energy Open Water Testing](#)

Department of Energy

Close Date: January 30, 2025

[Advanced Hydrogen and Fuel Cell Technologies to Drive National Goals](#)

Department of Energy

Close Date: January 31, 2025

[Energy Storage Pilot Demonstrations](#)

Department of Energy

Close Date: February 13, 2025

[Notice of Intent to Issue Funding Opportunity: Regional Direct Air Capture Hubs – Recurring Program](#)

Department of Energy

Close Date: To be announced

[Notice of Intent to Issue Funding Opportunity: Point Source Carbon Capture Large-Scale Pilots, Commercial Demonstrations, & Networked Demonstration](#)

Department of Energy

Close Date: To be announced

[Notice of Intent to Issue Funding Opportunity: Wind Turbine Technology Recycling](#)

Department of Energy

Close Date: To be announced

D.C. Climate Events

[Powering the Commanding Heights: Towards an American Strategy for Electric Demand Growth](#)

[DER and Virtual Power Plants: The Easiest Supply Boost](#)

Center for Strategic & International Studies

Wednesday, December 11, 9:00 AM ET

United States Energy Association

Wednesday, December 11, 11:00 AM ET

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

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