2024 ELI WESTERN BOOT CAMP CLIMATE LAW AUTHORITIES Karen McGaffey

I. Emissions Reporting, Corporate Commitments, and Disclosure Regulation

A. Corporate Commitments

The Climate Pledge, https://www.theclimatepledge.com/us/en.

Net Zero Tracker, https://zerotracker.net/insights/pr-net-zero-stocktake-2022.

United Nations, Climate Action: Net-zero Coalition, https://www.un.org/en/climatechange/net-zero-coalition.

Climate Impact Partners, Fortune Global 500 Climate Commitments, https://www.climateimpact.com/news-insights/fortune-global-500-climate-commitments/.

B. Emissions Reporting

EPA Greenhouse Gas Reporting Program website, https://www.epa.gov/ghgreporting

E. Marris, The World is Finally Cracking Down on "Green Washing," The Atlantic (Mar. 1, 2023).

C. Greenwashing

United Nations, Greenwashing – The Deceptive Tactics Behind Environmental Claims, https://www.un.org/en/climatechange/science/climate-issues/greenwashing#:~:text=By%20misleading%20the%20public%20to,delay%20concrete%20and%20credible%20action.

FTC Green Guides

Federal Trade Commission website, https://www.ftc.gov/news-events/topics/truth-advertising/green-guides.

FTC, Guides for the Use of Environmental Marketing Claims, 77 Fed. Reg. 62122 (Oct. 11, 2012).

FTC, The Green Guides: Statement of Basis and Purpose,

 $\frac{https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-issues-revised-greenguides/greenguidesstatement.pdf.$

FTC, Request for Comment, 87 Fed. Reg. 77,766 (Dec. 20, 2022); and extension of comment period, 88 Fed. Reg. 7656 (Feb. 6, 2023).

California AB 1305

California AB 1305,

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1305.

Jordan Wolman & Blanca Begert, *California's Less-ballyhooed Corporate Climate Law*, Politico (Dec. 6, 2023), https://www.politico.com/newsletters/california-climate/2023/12/06/californias-less-ballyhooed-corporate-climate-law-00130476.

Andrew Oxford, *Is Your Company Carbon Neutral? California Wants the Receipts*, Bloomberg Law (Oct. 24, 2023), https://news.bloomberglaw.com/in-house-counsel/is-your-company-carbon-neutral-california-wants-the-receipts.

D. Financial Disclosure Regulation

Securities & Exchange Commission

SEC Guidance (2010), https://www.federalregister.gov/documents/2010/02/08/2010-2602/commission-guidance-regarding-disclosure-related-to-climate-change.

ASTM E2718-16 Standard Guide for Financial Disclosures Attributable to Climate Change (Aug. 1, 2016).

Task Force on Climate-Related Financial Disclosures, https://www.fsb-tcfd.org/.

SEC Proposed Rule, The Enhancement and Standardization of Climate Related Disclosures for Investors (Mar. 21, 2022), https://www.sec.gov/rules/proposed/2022/33-11042.pdf.

SEC Final Rule (Mar. 6, 2024), https://www.sec.gov/files/rules/final/2024/33-11275.pdf.

SEC Fact Sheet (Mar. 6, 2024), https://www.sec.gov/files/33-11275-fact-sheet.pdf.

SEC Press Release (Mar. 6, 2024), https://www.sec.gov/news/press-release/2024-31.

Perkins Coie, *The SEC's Climate Disclosure Rule Has Arrived: Scope 3 Is Out—But What Is In?* (Mar. 18, 2024), https://www.perkinscoie.com/en/news-insights/the-secs-climate-disclosure-rule-has-arrived-scope-3-is-outbut-what-is-in.html.

California Statutes

SB 253, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB253.

SB 261, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB261.

Chamber of Commerce v. California Air Resources Board, No. 2:24-cv-00801 (C.D. Cal.).

II. Cap and Trade Programs

A. RGGI

Fact Sheet.

https://www.rggi.org/sites/default/files/Uploads/Fact%20Sheets/RGGI 101 Factsheet.pdf.

RGGI Press Release, CO2 Allowances Sold for \$12.50 in 59th RGGI Auction (Mar. 10, 2023), https://www.rggi.org/sites/default/files/Uploads/Auction-Materials/59/PR031023 Auction59.pdf.

RGGI, The Investment of RGGI Proceeds in 2020 (May 2022), https://www.rggi.org/sites/default/files/Uploads/Proceeds/RGGI Proceeds Report 2020.pdf

NRDC, The Regional Greenhouse Gas Initiative Is a Model for the Nation (July 14, 2021), https://www.nrdc.org/resources/regional-greenhouse-gas-initiative-model-nation.

Acadia Center, The Regional Greenhouse Gas Initiative: 10 Years in Review (2019), https://acadiacenter.org/wp-content/uploads/2019/09/Acadia-Center_RGGI_10-Years-in-Review_2019-09-17.pdf.

B. California

CARB website, https://ww2.arb.ca.gov/our-work/programs/cap-and-trade-program.

17 California Code of Regulations 95801-96022.

Summary of California-Quebec Joint Auction Settlement Prices and Results, https://ww2.arb.ca.gov/sites/default/files/2020-08/results_summary.pdf.

CARB, 2022 Scoping Plan for Achieving Carbon Neutrality (Nov. 16, 2022), https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan/2022-scoping-plan-documents.

California Chamber of Commerce v. State Air Resources Board, 10 Cal.App.5th 604, 216 Cal. Rptr. 3d 694 (2017).

C. Washington

Climate Commitment Act, Revised Code Washington ch. 70A.65.

Climate Commitment Act Implementing Regulations: Washington Admin. Code ch. 171-441, 173-446, and 173-446A.

Ecology website, https://ecology.wa.gov/Air-Climate/Climate-Commitment-Act.

Initiative Measure No. 2117 (Filed May 30, 2023), https://www2.sos.wa.gov/ assets/elections/initiatives/finaltext 3038.pdf.

Libby Denkmann & Sarah Leibovitz, *Will Gov. Inslee's signature achievement live past his time in office?* KUOW, https://www.kuow.org/stories/gov-inslee-urges-washington-state-to-stay-the-course-in-glide-path-toward-zero-emissions.

Isabella Breda, WA lawmakers rush to show climate act's value before it goes to ballot, Seattle Times, https://www.seattletimes.com/seattle-news/climate-lab/wa-lawmakers-rush-to-show-climate-acts-value-before-it-goes-to-ballot/.

Hallie Golden, *Effort to repeal Washington's landmark carbon program puts budget in limbo with billions at stake*, AP News, https://apnews.com/article/budget-uncertainty-washington-initiatives-9f90926c5fa85900caf79f448ee1873c.

D. Oregon

Department of Environmental Quality website,

https://www.oregon.gov/deq/ghgp/cpp/pages/default.aspx#:~:text=The%20Climate%20Protection%20Program%20sets,residential%2C%20commercial%20and%20industrial%20setting <u>s</u>.

Oregon Executive Order 20-04 (Mar. 10, 2020), https://www.oregon.gov/gov/eo/eo 20-04.pdf.

Oregon DEQ, Program Options to Cap and Reduce Greenhouse Gas Emissions: Final Report (June 2020), https://www.oregon.gov/deq/ghgp/Documents/ghgCapRedf.pdf.

Oregon Admin. Rules chapter 340-271, https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=6597.

Northwest Natural Gas v. Environmental Quality Commission, 329 Or. App. 648, 542 P.3d 71 (2023), https://law.justia.com/cases/oregon/court-of-appeals/2023/a178216.html.

III. Transportation Emissions

A. Fuel Efficiency

EPA, The 2022 EPA Automotive Trends Report: Greenhouse Gas Emission, Fuel Economy and Technology Since 1975 (Dec. 2022), https://www.epa.gov/system/files/documents/2022-12/420r22029.pdf.

Federal Fuel Efficiency Standards

Clean Air Act Section 202, 42 U.S.C. 7521.

EPA, Regulations for Greenhouse Gas Emission from Passenger Cars and Trucks, https://www.epa.gov/regulations-emissions-vehicles-and-engines/regulations-greenhouse-gas-emissions-passenger-cars-and.

Revised 2023 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions Standards, 86 Fed. Reg. 74434 (Dec. 30, 2021), https://www.govinfo.gov/content/pkg/FR-2021-12-30/pdf/2021-27854.pdf.

EPA Factsheet, https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1013NR8.pdf.

The Safer Affordable Fuel-Efficient SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks, 85 Fed. Reg. 24174 (Apr. 30, 2020), https://www.govinfo.gov/content/pkg/FR-2020-04-30/pdf/2020-06967.pdf.

EPA, Revised 2023 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emission Standards, 86 Fed. Reg. 74434 (Dec. 30, 2021), https://www.govinfo.gov/content/pkg/FR-2021-12-30/pdf/2021-27854.pdf.

NHTSA, Corporate Average Fuel Economy Standards for Model Years 2024-2026 Passenger Cards and Light Trucks, 87 Fed. Reg. 25710 (May 2, 2022), https://www.govinfo.gov/content/pkg/FR-2022-05-02/pdf/2022-07200.pdf.

EPA, Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles, 89 Fed. Reg. 27842 (Apr. 18, 2024), https://www.govinfo.gov/content/pkg/FR-2024-04-18/pdf/2024-06214.pdf.

EPA, Greenhouse Gas Emissions Standards for Heavy Duty Vehicles – Phase 3, https://www.epa.gov/system/files/documents/2024-03/hd-phase3-veh-standrds-ghg-emission-frm-2024-03.pdf.

California Fuel Efficiency Standards and Preemption Waiver

Clean Air Act Section 209, 42 U.S.C. 7543, https://www.law.cornell.edu/uscode/text/42/7543.

Reinstatement of Clean Air Act Preemption Waiver for GHG Emission Standards and Zero Emission Vehicle Mandate, 87 Fed. Reg. 14332 (Mar. 14, 2022), 2022-05227.pdf (govinfo.gov).

EPA Fact Sheet, https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1014870.pdf.

The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program, 84 Fed. Reg. 51310 (Sept. 27, 2019), https://www.govinfo.gov/content/pkg/FR-2019-09-27/pdf/2019-20672.pdf.

CARB website, https://ww2.arb.ca.gov/our-work/programs/low-emission-vehicle-program.

Executive Order N-79-20 (Sept. 23, 2020), https://www.gov.ca.gov/wp-content/uploads/2020/09/9.23.20-EO-N-79-20-Climate.pdf.

Ohio v. EPA, No. 22-1081 (D.C. Cir. Apr. 9, 2024), https://www.edf.org/sites/default/files/2024-04/Opinion%204.9.24.pdf.

Other States

Clean Air Act Section 177, 42 U.S.C. 7507, https://www.law.cornell.edu/uscode/text/42/7507.

CARB, States that have Adopted California's Vehicle Standards under Section 177 of Federal Clean Air Act (May 13, 2022), https://ww2.arb.ca.gov/sites/default/files/2022-05/%C2%A7177 states 05132022 NADA sales r2 ac.pdf.

Minnesota Auto Dealers Assoc v. Minnesota Pollution Control Agency (US Oct. 10, 2023), certiorari denied.

Oregon Low Emission/Zero Emission Vehicle Program

January 2023 Rulemaking, https://www.oregon.gov/deg/rulemaking/Documents/DEQ232022.pdf.

Washington Low Emission / Zero Emission Vehicle Program

Revised Code Washington 70A.30.010.

Washington Administrative Code chapter 173-400.

Ecology website, https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-423-400.

Infrastructure

- U.S. Department of Transportation, Federal Funding Programs, https://www.transportation.gov/rural/ev/toolkit/ev-infrastructure-funding-and-financing/federal-funding-programs.
- U.S. Department of Energy, Developing Infrastructure to Charge Electric Vehicles, https://afdc.energy.gov/fuels/electricity_infrastructure.html.
- U.S. Department of Energy, Hydrogen Fueling Infrastructure Development, https://afdc.energy.gov/fuels/hydrogen infrastructure.html.

FACT SHEET: Biden-Harris Administration Announces New Standards and Major Progress for a Made-in-America National Network of Electric Vehicle Chargers a (Feb. 15, 2023), https://www.whitehouse.gov/briefing-room/statements-releases/2023/02/15/fact-sheet-

<u>biden-harris-administration-announces-new-standards-and-major-progress-for-a-made-in-america-national-network-of-electric-vehicle-chargers/.</u>

U.S. Department of Energy, State Electrification Planning and Funding, https://afdc.energy.gov/fuels/electricity infrastructure state planning.html.

2023 Colorado EV Plan (March 2023), https://drive.google.com/file/d/1chOGYBE0xXCb4RqnK-jG2p6CgylpzLDV/view.

Washington State Plan for Electric Vehicle Infrastructure Deployment (July 2022), https://wsdot.wa.gov/sites/default/files/2022-08/Electricvehicle-plan-infastructuredeployment.pdf.

Georgia Electric Vehicle Infrastructure Deployment Plan (Aug. 2022), https://nevi-gdot.hub.arcgis.com/.

Maryland Zero Emission Vehicle Infrastructure Plan, https://evplan.mdot.maryland.gov/?doing_wp_cron=1679879564.1442439556121826171875.

B. Transportation Fuels - Clean Fuel Standards

Federal Renewable Fuel Standard

EPA website, https://www.epa.gov/renewable-fuel-standard-program.

Energy Independence and Security Act of 2007 (Public Law 110-140).

40 C.F.R. Part 80, Subpart M.

Proposed Rule: Renewable Fuel Standard (RFS) Program: Standards for 2023–2025 and Other Changes, 87 Fed. Reg. 80582 (Dec. 30, 2022), https://www.govinfo.gov/content/pkg/FR-2022-12-30/pdf/2022-26499.pdf.

Public Hearing for FRS Standards for 2023-2025 and Other Changes, 87 Fed. Reg. 76194 (Dec. 13, 2022), https://www.govinfo.gov/content/pkg/FR-2022-12-13/pdf/2022-26943.pdf.

Final Rule: Renewable Fuel Standard (RFS) Program: Alternative RIN Retirement Schedule for Small Refineries, 87 Fed. Reg. 54158 (Sept. 2, 2022), https://www.govinfo.gov/content/pkg/FR-2022-09-02/pdf/2022-18870.pdf.

Final Rule: Renewable Fuel Standard (RFS) Program: RFS Annual Rules, 87 Fed. Reg. 39600 (July 1, 2022), https://www.govinfo.gov/content/pkg/FR-2022-07-01/pdf/2022-12376.pdf

Notice of June 2022 Denial of Petitions for Small Refinery Exemptions Under the Renewable Fuel Standard Program, 87 Fed. Reg. 34873 (June 8, 2022), https://www.govinfo.gov/content/pkg/FR-2022-06-08/pdf/2022-12359.pdf.

EPA, An Analysis of the Price of Renewable Identification Numbers (RINs) and Small Refineries (Dec. 2022), https://aglaw.psu.edu/wp-content/uploads/2023/01/EPA-An-analysis-of-the-price-of-RINs-and-small-refineries-Dec.-2022.pdf.

EPA, Economics of Blending 10 Percent Corn Ethanol into Gasoline (Nov. 2022), https://nepis.epa.gov/Exe/ZyPDF.cgi/P1016A3T.PDF?Dockey=P1016A3T.pdf.

Sabine Center for Climate Change Law - U.S. Litigation: http://climatecasechart.com/case-category/renewable-fuel-standards/.

HollyFrontier Cheyenne Refining v. Renewable Fuels Assoc., 141 S. Ct. 2172 (2021).

American Fuel & Petrochemical Manufacturers v. EPA, 3 F.4th 373 (D.C. Cir. 2021).

Growth Energy v. U.S. EPA, 5 F.4th 1 (D.C. Cir. 2021).

Ergon-West Virginia v. EPA, 980 F.3d 403 (4th Cir. 2020).

Ergon-West Virginia, Inc. v. EPA, 896 F.3d 600 (4th Cir. 2018).

Advanced Biofuels Assoc. v. EPA, (D.C. Cir. Nov. 12, 2019), http://climatecasechart.com/wp-content/uploads/sites/16/case-documents/2019/20191112_docket-18-1115_judgment.pdf.

American Fuel & Petrochemical Manufactures v. EPA, (D.C. Cir. 2019), http://climatecasechart.com/wp-content/uploads/sites/16/case-documents/2019/20190906 docket-17-1258-et-al. opinion.pdf.

Coffeyville Resources Refining & Marketing v. EPA, (D.C. Cir. 2019), http://climatecasechart.com/wp-content/uploads/sites/16/case-documents/2019/20190830 docket-17-1044 opinion.pdf.

State Clean Fuel Standards

Abigail Husselbee, State Resource Guide: Drafting a Clean Fuel Standard to Manage Legal Risks (Apr. 29, 2022), http://eelp.law.harvard.edu/wp-content/uploads/Drafting-a-Clean-Fuel-Standard-to-Manage-Legal-Risks.pdf.

Air Peskoe & Kate Konschnik, Minimizing Constitutional Risk: Crafting State Energy Policies that Can Withstand Constitutional Scrutiny (Oct. 18, 2017), https://statepowerproject.org/mcr/.

California Low Carbon Fuel Standard

CARB website, https://ww2.arb.ca.gov/our-work/programs/low-carbon-fuel-standard.

LCFS dashboard, https://ww2.arb.ca.gov/resources/documents/lcfs-data-dashboard.

LCFS ZEV Infrastructure Crediting, https://ww2.arb.ca.gov/resources/documents/lcfs-zev-infrastructure-crediting.

Rocky Mountain Farmers Union v. Corey, 730 F.3d 1070 (9th Cir. 2013).

Rocky Mountain Farmers Union v. Corey, 913 F.3d 940 (9th Cir. 2019).

Oregon Clean Fuels Program

Oregon Revised Statutes 468A.265 through 468A.277.

Oregon Administrative Rules chapter 340-253.

Oregon Department of Environmental Quality website, https://www.oregon.gov/deq/ghgp/cfp/Pages/default.aspx.

2022 Rulemaking, https://www.oregon.gov/deq/rulemaking/Documents/DEQ16-2022.pdf and https://www.oregon.gov/deq/rulemaking/Documents/DEQ17-2022.pdf.

Clean Fuels Program Electricity 2021 rule, http://records.sos.state.or.us/ORSOSWebDrawer/Recordhtml/8022441.

DEQ, Oregon Low Carbon Fuel Standards: Advisory Committee Process and Program Design (Jan. 25, 2011), https://www.oregon.gov/deq/ghgp/Documents/cfp-FinalACReport.pdf.

Am Fuel & Petrochemical Manufacturers v. O'Keeffe, 903 F.3d 903 (9th Cir. 2018).

Washington Clean Fuel Standard

Revised Code of Washington chapter 70A.535.

Washington Administrative Code chapter 173-424.

Washington Department of Ecology website, https://ecology.wa.gov/Air-Climate/Reducing-Greenhouse-Gas-Emissions/Clean-Fuel-Standard.