

# Client Alert: What's Changing in Climate Change?

## Publications

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By: Thomas S. O'Neill, Geoffrey M. Davis

**The Inflation Reduction Act (IRA) signed into law this week is garnering headlines for its climate change measures – but it's not the only legislation that's going to have an impact on energy and environmental policies and programs, as well as ESG efforts.**

The IRA is historic legislation that pushes \$369B towards climate change solutions and creates unprecedented incentives and tax benefits to accelerate the transition to low and zero-carbon energy. And what's been relatively overlooked in recent coverage of the law is how it works in tandem with two other laws: the **Creating Helpful Incentives to Produce Semiconductors ("CHIPS") for America Act** and the **Infrastructure Investment and Jobs Act (IIJA)**.

CHIPS authorizes up to \$71B for the Departments of Commerce and Energy and the National Institute of Standards and Technology to institute a variety of programs, including the Regional Clean Energy Innovation Partnership, and award grants to public-private consortia that include industry or firms involved in technology, innovation, or manufacturing to "accelerate the pace of innovation of diverse clean energy technologies". The Department of Energy is authorized to support research, development, and the demonstration of renewable power, electric grid modernization and security, nuclear energy, alternative fuels, and carbon removal.

The Infrastructure Investment and Jobs Act includes more than \$70B for research, development, and deployment of innovative clean energy technologies, building new and more resilient transmission infrastructure to increase delivery of renewables and cleaner energy to the grid, and more EV charging networks.

Taken together, these laws are aimed at accelerating the energy transition and addressing climate change, with benefits related to critical technology development and scientific and technical research and services. The impact of these laws is hard to overstate, effecting change in every step of the energy generation, transmission, and consumption chain.

Jenner & Block lawyers from several practices – including Energy, Transitions in Energy and Climate Solutions (TECS), Environmental, and Tax – are evaluating the three laws for client-oriented synergies, with a particular focus on the IRA.

Some of the key elements are:

**TAX CREDITS:** In an unprecedented move, the IRA allows eligible taxpayers to transfer all or part of certain tax credits to an unrelated taxpayer for cash. The applicable credits include the production tax credit (45), the carbon sequestration credit (45Q), the investment tax credit (48), clean hydrogen production credit (45V), and zero-emission nuclear power production credit (45U). Our lawyers are evaluating how these credits translate to supporting projects to develop green hydrogen, such as through combined solar and storage projects and nuclear production of green hydrogen.

**FINANCIAL SUPPORT:** The IRA appropriated \$5B to create \$250B in loan guarantee authority for the Department of Energy to accelerate the decommissioning of fossil generation, increase carbon sequestration, and improve pollution controls. The law gave USDA's Rural Utility Service broad financial authority and \$9.7B of funding to assist rural cooperatives in transitioning to cleaner sources of energy.

**COMMUNITY ASSISTANCE AND EMPOWERMENT:** The law establishes Environmental and Climate Meet Our Team Justice Block Grants and provides EPA \$2.8B to support:

- Community-led air and other pollution monitoring, prevention, and remediation;
- Efforts that mitigate climate and health risks from urban heat islands, extreme heat, wood heater emissions, and wildfires;
- Climate resiliency and adaptation;
- Reduction of indoor toxins and indoor air pollution; and
- Engaging disadvantaged communities in state and federal advisory groups, workshops, rulemakings, and other public processes.

And while we seek to understand these three laws, even more change could be on the horizon. Jenner & Block is closely monitoring proposed federal permitting legislation for energy infrastructure and its likely ramifications for electric transmission and natural gas pipelines – and possibly hydrogen pipelines.

These laws create a host of opportunities and promise a bevy of new credits, incentives, and major programs. The challenge, now, is to focus on the context in which these credits and various programs fit together to produce real projects, real value, and real change in climate change.

## **Related Attorneys**



**Geoffrey M. Davis**

Partner

gdavis@jenner.com

+1 312 923 8302



**Thomas S. O'Neill**

Of Counsel

toneill@jenner.com

+1 312 923 2671

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