

Energy & Sustainability Litigation Updates — November 2022

Article By:

Jacob H. Hupart

Regulatory Developments. During the past month, there have been two notable developments in connection with the SEC’s proposed climate disclosures rule — “The Enhancement and Standardization of Climate-Related Disclosures for Investors.” (This proposed rule (released in March 2022), which is one of the most far-reaching and significant changes to the SEC’s disclosure regime in recent years, mandates a series of climate-related financial disclosures for all registrants in the U.S. securities market, focusing on GHG emissions, material risks related to climate change, and corporate governance.) First, due to a technical problem on the SEC’s website, the SEC re-opened the comment period on the proposed rule for a period of two weeks. During this re-opened comment period, the SEC received dozens of additional comments, which will need to be reviewed along with the nearly 15,000 comments it has already received. Second, there were a number of public media reports that the SEC was considering dropping the requirement from the proposed rule that most companies disclose Scope 3 GHG emissions, indicating that the agency was likely floating a “trial balloon” to gauge the reaction as to whether the removal of this aspect of the proposed rule would provoke a significant response, either from supporters or opponents. Although the ultimate impact of these two developments is uncertain, at minimum, it seems likely that the promulgation of the final rule will be delayed until late 2022 or (more likely) early 2023 and that it is more probable that elements of the proposed disclosures will be made less stringent and burdensome to regulated companies.

©1994-2024 Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. All Rights Reserved.

National Law Review, Volumess XII, Number 318

Source URL: <https://natlawreview.com/article/energy-sustainability-litigation-updates-november-2022>