

ARTICLE OVERVIEW CHART

AUTHOR(S)	TITLE	CITATION AND URL	TOPIC	THE BIG IDEA
Biber, Eric	<i>Regulating Greenhouse Gas Emissions Under the Endangered Species Act</i>	<u>13 MICH. J. ENV'T & ADMIN. L. 1</u>	Wildlife (Endangered Species Act)/Climate Change	The U.S. Fish and Wildlife Service and the National Marine Fisheries Service, pursuant to Endangered Species Act Sections 7 and 9, should implement a general permitting scheme to require both administrative agencies and private parties engaging in significant carbon-emitting actions to pay a modest carbon fee and use the proceeds from the fee to mitigate negative effects on endangered species directly affected by climate change.
Bryner, Nicholas	<i>The Once and Future Clean Air Act: Impacts of the Inflation Reduction Act on EPA's Regulatory Authority</i>	<u>65 B.C. L. REV. 1</u>	Air (Clean Air Act)/ Governance (agencies)	Policymakers and advocates should advance the use of Inflation Reduction Act “policy-by-spending” programs, including grants and tax credits, to fund development of technologies that demonstrate the feasibility of the technologies, which will support the Environmental Protection Agency’s promulgation of Clean Air Act technology-based regulations on greenhouse gas emissions, thereby overcoming legislative and judicial barriers to using the statute to address climate change.
Cahoy, Daniel R.	<i>Trademark's Grip over Sustainability</i>	<u>94 U. COLO. L. REV. 1043</u>	Governance (sustainability)	Trademark barriers are poised to become an overlooked impediment to sustainability, as litigation risks may hamper firms that aim to reuse, repair, and upcycle consumer goods, and courts should employ the following “modest legal reform[s]” to significantly reduce this burden: (1) curtail post-sale confusion liability by requiring trademark holders to show actual brand harm, (2) clarify the product-modification disclosure rules, and (3) interpret fee-shifting broadly to capture trademark holders who seek to “bully” small businesses with litigation threats on claims of questionable merit.

Craig, Jade A.	<i>Struggle Against the Water: Connecting Fair Housing Law And Climate Justice</i>	24 Nev. L.J. 737	Climate Change/Governance (environmental justice)	Given that the disproportionate impact of climate change-induced flooding on Black communities is rooted in historic housing discrimination, the design and execution of climate retreat policies should affirmatively further fair housing goals by adopting remedies such as providing housing mobility counseling and managing development in climate-safe areas in a manner that encourages residential integration by encouraging construction of housing for various income levels.
Cuttino, Nakita Q.	<i>Private Debt for Public Good</i>	76 FLA. L. REV. 637	Governance (private governance)	To ensure the environmental, social, and governance movement has real and lasting effect, policymakers should enlist universal lenders as monitors and, based on an analysis of contracts in the emerging sustainability-linked loan market, consider adopting policies that: 1) mandate disclosure of ESG benchmark failures; 2) certify neutral third-party agents (not affiliated with the lender) to serve as sustainability coordinators; and 3) provide significant incentives to lenders to compel their engagement in loan documentation, including through a government taxing mechanism that increases the cost of capital for noncompliant loans.
Eisen, Joel B. Payne, Heather	<i>Utilities with Purpose</i>	76 FLA. L. REV. 987	Energy/Governance (corporate law)	Public utility commissions should use their existing regulatory authority to change the corporate form of investor-owned electric utilities from one focused on profit to a purpose-based form “with broad stakeholder involvement and ESG values established in the corporate charter”—and new regulatory oversight and citizen suit provisions should be adopted to ensure compliance with the purpose-driven goals.

Farber, Daniel A.	<i>Turning Point: Green Industrial Policy and the Future of U.S. Climate Action</i>	<u>11 TEX. A&M L. REV. 303</u>	Climate Change/Governance (sustainability)	To realize the full potential of legislation, such as the Inflation Reduction Act, which increases the scale of clean energy markets and creates a virtuous cycle that drives innovation, cost reductions, and ambitious policy measures, a federal scoping plan should be adopted to coordinate and implement climate policies across government agencies, sectors, and jurisdictions, thereby enabling federal and state governments to align their efforts, track progress, ensure well-timed actions, and meet equity goals.
Fox, Sarah J.	<i>Soil Governance and Private Property</i>	<u>2024 UTAH L. REV. 1</u>	Land Use/Natural Resources	Soil provides myriad environmental benefits and should be treated as a common resource, similar to air and water, and local governments, in particular, are well-situated to protect soil health in their land use planning capacity by using tools such as zoning to restrict development in areas of high soil quality.
Gadinis, Stavros Havasy, Chris	<i>The Quest for Legitimacy: A Public Law Blueprint for Corporate Governance</i>	<u>57 U.C. DAVIS L. REV. 1581</u>	Governance (private governance)	To improve relations with stakeholders, reduce the possibility of costly legitimacy challenges, and improve firm value, corporations should adopt a blueprint for environmental, social, and governance initiatives, modeled on administrative law mechanisms for improving agency legitimacy—including steps such as increasing participation by stakeholders, improving corporate managerial transparency and disclosure, and standardizing the methods of corporate decision-making.

Hammond, Andrew	<i>On Fires, Floods, and Federalism</i>	<u>111 CALIF. L. REV. 1067</u>	Governance (environmental justice)	To adapt the United States' already fraught network of welfare assistance systems to the unprecedented challenge of climate change, Congress should amend federal statutes to make assistance more reliable, accessible, and portable, including by allowing climate-displaced Americans to continue receiving assistance and Americans to sue the Federal Emergency Management Agency over administration of disaster relief benefits—and states and Tribal governments should make assistance more reliable through measures such as pre-registration programs and waivers of in-person application requirements for disabled Americans and others in disaster areas.
Kakade, Seema	<i>A Contractual Relationship with Environmental Justice</i>	<u>73 AM. U. L. REV. 343</u>	Governance (environmental justice/private governance)	Environmental nonprofit organizations should establish environmental justice transactional practice groups to provide legal services for community groups that contract with corporations over facility siting and permitting, and their efforts should include developing a database of agreements which serves as a starting point for developing innovative contractual provisions.
Marks, Alexa Brunet	<i>Transitioning to Regenerative Agriculture One French Fry at a Time</i>	<u>24 NEV. L. J. 1029</u>	Land Use (agriculture)	To increase the likelihood that firms rely on high-quality offsets to reach their climate goals and that farmers enroll their acres in regenerative agriculture over the long term, regulations should be adopted to: (1) reduce information asymmetries in contracts between farmers and purchasers; (2) provide uniform definitions and standards for regenerative agriculture practices; (3) improve measurement techniques for soil carbon sequestration; and (4) require public companies to disclose their reliance on carbon offsets in their climate strategies.

Murthy, Sharmila L.	<i>Disrupting Utility Law for Water Justice</i>	76 STAN. L. REV. 597	Water (Safe Drinking Water Act)/Governance (environmental justice)	To remove legal barriers to utilities providing affordable water for all Americans, the Uniform Law Commission should develop a model rule that provides: (1) use of revenue from water tariffs to fund customer assistance water affordability programs based on non-cost-of service factors is deemed just, reasonable, and nondiscriminatory; (2) utilities are permitted to make a business case that justifies the use of water revenue to fund customer assistance programs or to cross-subsidize low-income households; and (3) water is a necessity of human life and should be available at an affordable cost.
Payne, Heather E.	<i>Repurposing Fossil Infrastructure</i>	15 SAN DIEGO J. CLIMATE & ENERGY L. 35	Energy/Governance (infrastructure)	To support the movement towards a carbon-free future, three strategies to repurpose fossil fuel infrastructure should be adopted: (1) transform gas stations into battery storage for solar power and microgrid support, maintaining local tax revenue; (2) use fossil gas pipelines as conduits for underground low voltage electrical lines in residential neighborhoods, improving grid reliability and reducing utility costs; and (3) modify interstate gas pipelines for green hydrogen transport, linking current electric generating facilities to a more sustainable type of power.
Rossi, Jim Stack, Kevin	<i>Representative Rulemaking</i>	109 IOWA L. REV. 1	Governance (agencies/ environmental justice)	Because the least powerful interests in society—especially with respect to environmental impacts—often have no representation in federal agency notice and comment rulemaking, which is dominated by businesses subject to regulations, agencies should: (1) prior to rulemaking, identify key stakeholders expected to comment (the “representation floor”) and evaluate whether the floor was met in actual participation; and (2) when necessary, hold competitions to appoint “proxy representatives” who will advocate on the behalf of underrepresented viewpoints in the rulemaking process.

Ruhl, J.B. Salzman, James	<i>The Greens' Dilemma: Building Tomorrow's Climate Infrastructure Today</i>	73 EMORY L.J. 1	Climate Change/ Governance (infrastructure)	To implement the massive scale of new infrastructure urgently needed to meet U.S. greenhouse gas emissions reduction goals, a new approach should be adopted that explicitly focuses on decarbonization and places speed and climate impact on par with (and potentially ahead of) conservation, distributional equity, and social justice by leveraging streamlining methods more “comprehensively” and “aggressively” by using federal preemption, centralizing federal authority, establishing strict timelines, and providing more comprehensive and transparent information sources and access.
Serkin, Christopher	<i>Climate Zoning</i>	99 NOTRE DAME L. REV. 1093	Climate Change/Land Use (smart growth)	Rather than rely on solely conventional land use regulations to mitigate climate change, local governments should adopt situational zoning and use differing sets of sophisticated land use tools to modify development in high-carbon local areas (e.g., green building codes) and encourage development in low-carbon places (e.g., maximum unit size requirements)—and the federal government should support local efforts with detailed carbon maps and strategic investments while states, for example, should invest in urban density-supporting infrastructure and provide authority for local governments to act.
Wiener, Jonathan B. Felgenhauer, Tyler	<i>The Evolving International Climate Change Regime: Mitigation, Adaptation, Reflection</i>	11 TEX. A&M L. REV. 451	Climate Change/Governance (international)	To ensure collective rather than unilateral decisions and to remedy countervailing risks, the elements of an international governance regime for solar radiation modification (SRM) should be designed now based on risk-risk tradeoff analyses, adjusted over time through adaptive learning, and focused initially on establishing a monitoring and information sharing system—in order to provide early notice of SRM activities, deter unwise unilateral deployment, and assess environmental impacts.

Wood, Mary C.	<i>Sky Carbon Cleanup and Biodiversity Restoration: Devising Regional Frameworks</i>	<u>25 VT. J. ENVTL. L. 209</u>	Climate Change/Wildlife (biodiversity)	Catalyzing the drawdown and sequestration of legacy atmospheric carbon can stave off irreversible climate tipping points, and this “sky cleanup” can be achieved with a meta-strategy centered on establishing non-governmental Regional Atmospheric Recovery Frameworks that draw on diverse experts to guide global carbon sequestration through land-based, natural climate solutions—and Regional Sky Trusts should also be established to administer projects as well as Regional Atmospheric Recovery Institutes to sustain and proliferate efforts.
Tseming, Yang	<i>Old and New Environmental Racism</i>	<u>2024 UTAH L. REV. 109</u>	Governance (environmental justice/ agencies)	To address its failure to aggressively enforce anti-discrimination laws, the Environmental Protection Agency should adopt: 1) policy reforms that include conducting compliance reviews, accepting <i>de minimis</i> increases in pollution exposures as per se adverse effects under Title VI regulations, and considering aggregate effects on minority communities; and 2) structural reforms that include moving the Title VI program into the Office of Enforcement and Compliance Assurance, creating a Title VI adjudicative claims process, and focusing on bringing communities located in “environmental justice non-attainment zones” into “attainment”—and long term Congress should enact systemic changes such as establishing a right to a healthy environment.