

ENVIRONMENTAL LAW

Lewis & Clark Law School

VOLUME 56

SPRING 2026

NUMBER 2

ARTICLES

- Law and Climate Disinformation.....117
Katrina Fischer Kuh

Documents, testimony, research, and analysis from a variety of disciplines and organizations reveal that some fossil fuel companies lied to the public about the climate harms of fossil fuels. Increased clarity about the conduct of the climate disinformation effort stands in contrast to decided haziness about its legal significance and consequences. The seminal climate case *Massachusetts v. EPA* is, to some, an early and powerful rejection of the importation of approaches and science rooted in the climate disinformation effort into agency decision making. It remains unclear, however, whether there are viable legal avenues to confront the core of the climate disinformation effort—its influence on the public (as consumers and voters) and, in turn, its influence on the sale of fossil fuels, fossil fuel companies’ social license to operate, policies to mitigate climate change, and, ultimately, climate change itself. Lawsuits seeking compensation from fossil fuel defendants for climate harms under state tort law center the climate disinformation effort. Doing so may help to render the controversies justiciable; it could also require courts to confront difficult questions about whether the climate disinformation effort was protected First Amendment speech. The “success” of the climate disinformation effort, the challenge of imposing ex-post-legal accountability for it harms, and the recognition that the climate disinformation effort is just one iteration of a recurring phenomenon—corporate public deception schemes—suggests the need for ex-ante corporate law reform.

- Home is Where the Heat Is: The Urgent Need to Include Cooling in Rental Warranties of Habitability.....175
Douglas Ruley

The climate crisis is making the world hotter and increasing the number of extreme heat days in many American states. Extreme heat kills a growing number of people every year and worsens many chronic health conditions. These impacts from extreme heat are focused in formerly segregated and low-income communities. Despite the deaths and disabilities from extreme heat, American law has been slow to provide heat-related public health protections. A lethal example is that no state and few localities

require air conditioning or any means of cooling in rental housing through warranties of habitability, even though those warranties in every state require heating for protection from the cold. Because these warranties are grounded in safety and health, they must be expanded to include cooling as well as heating. This Article examines the laws of Florida, Arizona, and Texas, and suggests ways these states, and the growing number of other extreme heat states, could improve their laws to protect tenants from heat-related death and debilitation, using models provided by local ordinances in American cities and counties.

State Policy and Regulatory Approaches to Sustainable Aviation Fuel Across the United States.....201
Somtochukwu Attamah, Mary Johnson, Michael D. Helbing, and Lara B. Fowler

Sustainable Aviation Fuel (SAF) represents a critical lever for achieving near-term decarbonization of the aviation industry. SAF can be manufactured for “drop-in” use in existing aircraft and fueling systems, allowing manufacturers to achieve lifecycle greenhouse gas (GHG) savings relative to standard jet fuel. However, U.S. policy is still disjointed: federal incentives are accompanied by diffuse state efforts, which means uneven market-based feedback and investment risk. After outlining the federal policy context, this Article conducts a comparative analysis of SAF-related policy frameworks across the fifty states. This includes a variety of government solutions offered in the form of enacted and proposed statutes, clean fuel standards, executive actions, and public-private initiatives. States are categorized based on observed activity. These observations are contextualized with recent changes to federal law, most prominently the Inflation Reduction Act provisions regarding the production of clean fuels, and the evolution of administrative-law doctrines following the Supreme Court effectively ending the doctrine of Chevron deference.

The Past and Future of Climate Reparations.....243
Sarah Lok

Climate change is more than just a problem afflicting us all in the present. Rather, it is a justice-related problem implicating the past and future. Any reparatory project undertaken should thus endeavor to remedy past wrongs and prevent future harms. This Article first establishes an analytical framework premised on climate justice that facilitates an examination of international governance mechanisms and climate litigation. It subsequently analyzes the extent to which these two means of achieving climate reparations—that implement the international law on mitigation, adaptation, and loss and damage—have achieved climate justice in the past. Lastly, it suggests how these means may better achieve climate justice in the future. Ultimately, this Article finds that achieving climate reparations for States and individuals necessitates strong unilateral international governance mechanisms beyond the Paris Agreement and vigorous climate litigation using domestic and international law and courts.