

Update on Federal Regulation and Litigation

Presented to the

Interstate Oil and Gas Compact Commission
Council of Oil and Gas Attorneys
Annual Conference

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AGENDA

Methane

GHG Endangerment Finding

GHG Reporting

GHG Gas Power Plant

NSPS Turbines

Good Neighbor Plan

Exceptional Events

PM 2.5 NAAQS

Hydraulic Fracturing

Methane Rule

Texas v. EPA,
Case No. 24-1054 (D.C. Circuit)

Challenging 89 Fed. Reg. 16,820 (March 8, 2024)

Case No. 24-1054 (D.C. Circuit)

Petitioners Brief November 25, 2024

EPA Abeyance Motions February 17, 2025/June 9, 2025

Motions granted: February 11, 2025/June 24, 2025

Status Report (December 22, 2025) “EPA’s reconsideration is ongoing.”

No Stay in effect

Principal Issues (2024 Rule)

1. 2-year deadline
2. Cost-benefits analysis
3. Monitoring by 3rd parties
4. Zero-emissions standard
5. Definition of modification
6. BSER for marginal well

2024 Rule Deadline Extensions

- Interim Final Rule: 90 Fed. Reg. 35,966 (July 28, 2025)
- Final Rule: December 3, 2025 (90 Fed. Reg. 55671)
 - Extended the deadline for continuous monitoring of the vent gas net heating value of flares and enclosed combustion control devices.
 - Extended the deadline to January 22, 2027, to meet certain requirements related to control devices, equipment leaks, storage vessels, process controllers, and covers/closed vent systems.
 - Extended the deadline to January 22, 2027, for States to submit to the EPA plans to address existing oil and natural gas sources pursuant to the 2024 Emission Guidelines (EG).

Technical Changes (2024 Rule)

- Proposed Rule: January 15, 2025 (90 Fed. Reg. 3734)
- Final Rule: April 9, 2026 (91 Fed. Reg. 18056)
- Extending the baseline time limit for temporary flaring of associated gas in certain situations from 24 hours to 72 hours with allowances to go beyond 72 hours in the event of exigent circumstances such as extreme inclement weather that prevent an owner or operator from safely accessing a well site to resolve an emergency or maintenance issue:
- Revising numerous aspects of vent gas NHV continuous monitoring requirements and alternative performance test (sampling demonstration) options for flares and enclosed combustion devices.

EPA Regulatory Agenda

Additional Reconsideration of Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review

On March 8, 2024, the EPA finalized new source performance standards (NSPS) regulating greenhouse gases and volatile organic compounds emissions from the Crude Oil and Natural Gas source category pursuant to the Clean Air Act. The EPA also finalized emission guidelines under the Clean Air Act for states to follow in developing, submitting, and implementing state plans to establish performance standards to limit greenhouse gas emissions from existing sources (designated facilities) in the Crude Oil and Natural Gas source category. On March 12, 2025, the EPA Administrator announced the agency will undertake reconsideration of 40 CFR part 60 subparts OOOOb and OOOOc.

Proposed rule: November 2025

Final rule: July 2026

Now likely to be proposed in summer of 2026 and final at year end.

GHG Endangerment Finding

Proposed Reconsideration of Endangerment Finding: 90 Fed. Reg. 36,288 (August 1, 2025)

- p. 36,298 EPA has relied on the Endangerment Finding in issuing subsequent endangerment findings and GHG regulations some of which have been vacated by the Supreme Court.
- p. 36,297 federal preemption would continue to apply, and we would retain our authority to regulate emissions

Final Rescission Rule

- February 18, 2026, Final Rule, Rescission of the Greenhouse Gas Endangerment Finding and Motor Vehicle Greenhouse Gas Emission Standards under the Clean Air Act,” 91 Fed Reg. 7686.
 - EPA’s GHG emissions standards initiative has no impact on climate change modeling
 - CAA does not authorize EPA to prescribe GHG emissions standards, nor does it authorize a standalone endangerment finding.
 - EPA has not developed air quality criteria or NAAQS for GHGs. This action does not impact any of EPA’s criteria pollutant emissions standards.
 - CAA preempts state common-law claims and statutes that seek to regulate out-of-state emissions.
- Petitions for Review have been filed with the D.C. Circuit Case No. 26-1037

GHG Reporting

Reconsideration of GHG Reporting Program

Proposed Rule: 90 Fed. Reg. 44591 (September 16, 2025)

Remove program obligations for most sources including the distribution segment of the petroleum and natural gas systems source category (Subpart W)

And suspend until 2034 program obligations for the remaining segments of Subpart W

Extending Deadline for Reporting for 2025

Final Rule: 91 Fed. Reg. 9712 (February 27, 2026)

Extend reporting deadline for 2025 from March 31, 2026, to October 30, 2026.

All other aspects of the September 16, 2025, proposal will be addressed in one or more subsequent final actions.

GHG Power Plant Rule

West Virginia v. EPA, Case No. 24-1120 (D.C. Circuit) Challenging 89 Fed. Reg. 39,798 (May 9, 2024)

Principal Issues

1. 90%-capture CCS achievability
2. Grid reliability
3. 40% co-firing achievability
4. Coal plants already regulated under Section 112
5. Coal refuse plants unique factors

Oral Argument:

December 6, 2024

Case now held in abeyance

EPA Regulatory Agenda

September 4, 2025

Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel Fired Electric Generating Units

Abstract: In April 2024, EPA issued the Carbon Pollution Standards (CPS), which limited greenhouse gas emissions from new and existing fossil fuel-fired power plants. The CPS directed States to set standards of performance for existing fossil fuel-fired steam generating power plants, and further tightened new source performance standards first issued in 2015. The EPA is revisiting these standards, and this action proposes to repeal all greenhouse gas emissions standards for fossil fuel-fired power plants.

NPRM	June 17, 2025	90 Fed. Reg. 25752
NPRM Comment Period End	August 7, 2025	
Final Rule	December 2025	

Proposed GHG Power Plant Repeal

Current Status

- On February 27, 2026, EPA filed a status report stating that the anticipated final action on the proposed rule, previously expected by December 2025, has been delayed due to a lapse in appropriations and “the press of other obligations.” Final rule expected in Spring of 2026

Other Initiatives

IOGCC Legal and Regulatory Affairs Committee

Model Legislation and Guidance on Geologic Sequestration of Carbon Dioxide: A Guide for States

Environmental Council of States collaboration with the American College of Environmental Lawyers regarding UIC Class VI delegation and CCS

NSPS Stationary Turbines Rule

NSPS Final Rule 91 Fed Reg 1910 (January 15, 2026)

<https://www.govinfo.gov/content/pkg/FR-2026-01-15/pdf/2026-00677.pdf>

- SCR NO_x controls will not be required on any stationary combustion turbine, except for new large gas-fired turbines (850 MMBtu/hr) with a 12-month capacity factor greater than 45%.
- NO_x limits for units firing natural gas are as follows:

New large turbines with high-utilization turbines and equipped with SCR	5 ppm.
New large turbines with low utilization and higher efficiency	25 ppm
New large turbines with high utilization and lower efficiency	9 ppm
New medium turbines with high utilization	15 ppm
New medium turbines with low utilization	25 ppm
New small turbines	25 ppm
- Part – load operations have been defined as less than or equal to 70% of base load rating allowing consideration of site-specific NO_x limit, not including system emergency in determining utilization, and exemption from Title V.
- Temporary turbines 850 MMBtu or less are one used at particular location for up to 2 years have a NO_x limit of 25 ppm.
- The rule offers optional mass-based NO_x rates, requiring owners to meet both a short-term and a long-term limit.
- The preamble to the rule states that the cost savings for industry is estimated to be \$87 million over 8 years. The preamble also confirms that EPA is no longer planning to monetize any health benefits related to the rule.

NSPS Final Rule Litigation

Deadline for appeal: March 16, 2026

Petitions for Review:

Case No. 26-1053 API v EPA (abeyance/arctic circle issues)

Case No. 26-1055 Sierra Club, American Lung Assn., Clean Wisconsin, Citizens for Pennsylvania's Future, EDF, and NRDC.

Intervenors: Midwest Ozone Group, Electric Generators Quad-Ka Coalition, API, INGAA, NRECA

Good Neighbor Plan

EPA Regulatory Agenda

September 4, 2025

Interstate Transport Plan Review for the 2015 Ozone NAAQS - Phase 1

NPRM August 2025

Final Rule December 2025

Interstate Transport Plan Review for the 2015 Ozone NAAQS – Phase 2

NPRM October 2025

Final Rule August 2026

The EPA intends to revisit its previous actions finalizing the disapproval or partial disapproval of state implementation plans (SIPs) and finalizing federal implementation plans (FIPs) addressing states' interstate transport obligations under the 2015 ozone national ambient air quality standards (NAAQS). Following numerous challenges to EPA's past transport actions for the 2015 ozone NAAQS, multiple federal courts have stayed EPA's actions as to nearly half of states with disapproved 2015 ozone transport SIPs. Consistent with the EPA Administrator's regulatory agenda announcement in March 2025, this action intends to invoke the principles of cooperative federalism while accomplishing EPA's core mission of protecting the environment.

Phase I Proposed Rule

January 30, 2026 (91 Fed. Reg. 4026)

Phase I: Proposed state plan approvals based on 1 ppb contribution level for the states of Alabama, Arizona, Kentucky, Minnesota, Mississippi, Nevada, New Mexico, and Tennessee and to withdraw error correction for Iowa and Kansas resulting in approval of 10 state plans.

Will next review the states of Arkansas, Missouri, Oklahoma, Utah, and West Virginia.

Comments invited on higher contribution levels of 2 ppb and 3.5 ppb

Anticipate signing Phase I final rule by the end of 2026.

Phase II: EPA anticipates proposal in summer of this year (2026) including consideration other state plans and finalization of Phase II by the end of calendar year 2026.

Exceptional Events

EPA Regulatory Agenda

Title: Treatment of Data Influenced by Exceptional Events: Rule Revisions

Abstract: Consistent with the EPA Administrator's regulatory agenda announcement in March 2025, the EPA proposes to revise the Exceptional Events Rule to incorporate certain regulatory and implementation flexibilities as well as prioritize the allowance of prescribed fires. The Exceptional Events Rule implements Clean Air Act section 319(b), which outlines a pathway for air agencies to request the exclusion of air quality monitoring data influenced by exceptional events from certain regulatory actions.

NPRM August 2025

Final Rule December 2025

PM 2.5 NAAQS

Spring Unified Agenda (Released 9/4/25)

- “Under the Clean Air Act Amendments of 1977, EPA is required to review and if appropriate revise the air quality criteria for the primary (health-based) and secondary (welfare-based) national ambient air quality standards (NAAQS) every 5 years. The Administrator is revisiting the 2024 decision on the NAAQS for Particulate Matter.”

Agency: Environmental Protection Agency(EPA)

Priority: Other Significant

NPRM 07/00/2025

Final Rule 01/00/2026

Additional Information: EPA-HQ-OAR-2015-0072.

- <https://www.reginfo.gov/public/do/eAgendaMain>

Vacate Motion in D.C. Circuit Case No. 24-1050

EPA Motion to Vacate (November 24, 2025)

- EPA asserts that the March 2024 standard was promulgated improperly without the “thorough review” of the underlying air quality criteria and related standards required by the Act resulting in an unlawful tightening of the PM2.5 annual standard from 12.0 to 9.0 ug/m³.
- “EPA now confesses error and urges this Court to vacate the Rule before the area designation of February 7, 2026.”
- “Vacatur would thus leave in place standards that EPA concluded were “requisite to protect public health, with an adequate margin of safety, from effects of PM2.5 in ambient air” based on EPA’s most recent thorough review of the particulate matter standards and air quality criteria.”

No Stay in effect

Nonattainment Deadline

- Feb 6, 2026 – Deadline for EPA to issue final area designations for PM_{2.5} NAAQS of 9 ug/m³.
 - No designations to date. EPA has not issued the 120-day letters to states advising them of EPA's assessment of their submittals concerning attainment or nonattainment recommendations.
 - CAA waiver provisions allow for an extension for up to one year if the Administrator based on a determination that there is not sufficient information to promulgate the designations.
 - Trade press reports of anticipated grant of extension.

Hydraulic Fracturing

NY Hydraulic Fracturing Ban

Woodward et al v. Lefton et al

US District Court, Northern District of NY,

Case No. 3:26-CV-0736 filed April 16, 2026

Challenge of NY ban on high volume hydraulic, CO₂, and propane gel fracturing

Prohibits “every commercially viable method of extraction”

A “taking of private property that violates the Fifth Amendment”

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