Update on Federal Issues

Presented to the

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

October 26, 2026

(based on data available as of September 29, 2026)

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AGENDA

Methane

GHG Power Plant Rule/ Endangerment Finding

GHG Reporting

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 7, 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. 35966 (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).

DC Circuit Case No. 25-1275 EDF v EPA

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

Proposed rule submitted to OMB/OIRA: **August 18, 2026**

RIN 2060-AW73 — **OIRA review pending**

EO 12866 stakeholder meetings ongoing

Current Unified Agenda: Final Rule **July 2027**

(Timing remains subject to change.)

GHG Power Plant Rule/ Endangerment Finding

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

Case now held in abeyance

GHG Rules – Fossil Fuel-Fired EGUs

- **September 14, 2026**. EPA released its final Partial Repeal of the CPS for Fossil Fuel Fired EGUs. 91 Fed. Reg. 58954.

- **September 14, 2026**. Supplemental Proposal: Rescission of the Greenhouse Gas Findings for Fossil Fuel-Fired Power Plans and Repeal of Regulations for Power Plant Greenhouse Gas Emissions under Clean Air Act Section 111. 91 Fed. Reg. 59002.
  - Virtual public hearing for proposal is October 1, 2026 from 11:00 – 3:00 pm

Petition for Review of GHG Final Partial Repeal of CPS Submitted to D.C. Circuit

- **September 17, 2026**
- Petitioners:
  - American Lung Association
  - Clean Air Council
  - Clean Wisconsin
  - Environmental Defense Fund
  - Natural Resources Defense Council
- Potential litigation issues: no replacement standards issued; costs should be balanced by benefits of rule, to include health related benefits; is it allowable to separate lawsuits over each rulemaking.

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

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.

***Update: EPA submitted a further RY2025 reporting-deadline extension to OIRA on September 17, 2026; review pending.**

Good Neighbor Plan

Phase I Proposed Rule
"Interstate Transport Plan Review for the 2015 Ozone NAAQS"
91 Fed. Reg. 4026 (January 30, 2026)

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

Phase II: EPA anticipates proposal by end of this year (2026) including consideration other state plans and finalization of Phase II by summer of 2027. "This new schedule remains subject to further revision." Szabo Declaration August 24, 2026. Utah v EPA, Case No 23-1157.

Contribution levels for states to be considered in Phase II Rule

	2023	2026
Arkansas:	1.21	1.16
Missouri:	1.87	1.68
Oklahoma:	1.01	0.74
Utah:	1.29	1.05
West Virginia:	1.49	1.34
Maryland:	1.28	0.92
Michigan:	1.59	1.47
Ohio	2.05	1.95
Wisconsin	2.86	0.18
Texas:	4.74	4.34
Pennsylvania:	6.00	5.47
Louisiana:	9.51	9.37
Indiana:	10.03	8.53
Illinois:	19.09	13.57
New Jersey:	8.38	8.10
New York:	16.10	12.65
California:	35.27	34.03

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	**Proposed rule submitted to OMB/OIRA September 14, 2026 — review pending.**

PM 2.5 NAAQS

PM2.5 NAAQS

Final PM 2.5 NAAQS

- Annual PM 2.5 NAAQS: 9 ug/m3
- Effective Date: May 6, 2024
- Final Designations: February 6, 2026 (not completed by EPA)

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."

<u>No Stay in effect</u>

Commonwealth of Kentucky, et al v. EPA D.C. Circuit Case No. 24-1050

- **June 6, 2026**. Petitions for Review and EPA's motion for vacatur denied.
- **September 8, 2026**. Letter received by the D.C. Circuit from the Clerk of the Supreme Court of the United States notifying the court of the petitions for writ filed and place on the docket.
- Questions Presented in Cert Petitions:
  - Ky, et al.
    1. whether the CAA gives EPA the authority to revise NAAQS without conducting a thorough review merely because the revision occurs before the normal five-year period?
    2. Whether the CAA bars EPA from considering costs and feasibility of revising the NAAQS when deciding whether to exercise its discretion to undertake a revision before the normal five-year review.
  - U.S. Chamber, et al,
    1. Whether EPA may revise a NAAQS without the "thorough review" required by section 109(d)(1) simply because it acts "either or more frequently" than mandated?
    2. Whether EPA must consider costs and attainability when exercising discretion to review and revise a NAAQS "earlier or more frequently" than mandated?

Summary Judgment Order
Northern District of California

(Litigation Challenging EPA PM2.5 Inaction)

- Alliance of Nurses for Healthy Environments, et al. v. EPA, U.S. District Court for the Northern District of California, Case No. 4:26-cv-03118
- **July 17, 2026 Order**:
  - Because there is no dispute that EPA failed to timely fulfill its non-discretionary duty, summary judgment in favor of Plaintiffs is appropriate.
  - The Court finds that granting EPA until February 6, 2027 [for promulgation of final designations], is warranted on the record. This will mean that EPA will have roughly eight months since the time that the 2025 design values were published to promulgate the final designations – exactly what the EPA originally anticipated for the 2024 design values.
- On **September 2, 2026,** Zeldin filed an appeal to the US Court of Appeals for the Ninth Circuit from the final judgment entered on July 20, 2026 and consistent with the Court's Order Denying Motion for Abeyance and Granting in Part and Denying in Part Motions for Summary Judgment.
  - USCA Case Number 26-5750

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

Jeffrey D. Jennings, Pacific Legal Foundation, to present at the Legal and Regulatory Committee on October 28, 2026

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