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POWER SUMMIT 2025

Presentation: Air Quality Focus – Regulatory Update

Agenda



- Power Sector Greenhouse Gas Rules and Endangerment Finding
- NEPA Regulatory and Legislative Reforms
- Mercury and Air Toxics Standards
- Coal Ash Update
- Wastewater Discharge Rules
- Endangered Species Reforms

GHG Rulemaking

On June 17, 2025, EPA issued its proposal, “Repeal of the GHG Emissions Standards for Fossil Fuel-Fired Electric Generating Units”

- Primary Proposal - Repeal of all regulation of GHG emissions from fossil fuel-fired power plants, which would include 40 CFR Part 60, Subpart UUUUb, Subpart TTTT, and Subpart TTTTa and all associated rulemakings, including the 2015 New Source Performance Standards (2015 NSPS) under Clean Air Act (CAA) section 111(b) and the 2024 Carbon Pollution Standards (CPS).
- Alternative Proposal- Repeal of the CPS existing fossil fuel-fired EGUs, repeal of the CPS Phase II CCS requirements.
- Comments were due August 7, 2025. Final Rule in December 2025.



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Stakeholder Comments on GHG Repeal

- Arguments in Support of the CPS Repeal:
 - Coalition of 28 States (led by West Virginia): They argue that electric generation unit (EGU) GHG emissions do not significantly contribute to air pollution endangering public health. They support the repeal of the CPS's BSER determinations regarding CCS and natural gas co-firing emission guideline requirements.
 - North Dakota: They support the CPS repeal and request that EPA finalize the Primary Proposal. They also emphasize the need to move quickly to finalize the Alternative Proposal.
 - Texas Commission on Environmental Quality (TCEQ) and Railroad Commission of Texas (RRC): They argue that GHG emissions from EGU source category do not significantly contribute to air pollution that endangers public health and welfare as a result of global climate change. They also request the finalization of the Alternative Proposal and the elimination of certain requirements.

Stakeholder Comments on GHG Repeal

- Arguments Against the CPS Repeal:
 - Environmental and Health Organizations: These groups argue that the EPA lacks a reasonable basis to claim power plant emissions do not significantly contribute to harmful air pollution. They emphasize the need to uphold existing standards based on scientific consensus and public support.
 - New York State Department of Environmental Conservation (NYSDEC): They argue that EPA is ignoring a long record of peer-reviewed research demonstrating that GHGs, including CO₂, are air pollutants that endanger public health and welfare. They also state that EPA failed to consider several ramifications of the repeal, including health impacts and costs.

Stakeholder Comments on GHG Repeal

- APPA advocates for repealing under the Alternative Proposal and requests revisions to combustion turbine standards. It recommends EPA issue a supplemental or standalone rule to revise NSPS and expresses concerns about the legal and policy basis of current standards.
- NRECA urges EPA to finalize the Proposed Rule quickly and supports both the Primary and Alternative Proposals. It calls for repealing stringent carbon capture requirements and opposes retaining non-CCS standards for new natural gas plants.

Stakeholder Comments on GHG Repeal

- Class of '85 Regulatory Response Group favors finalizing the Alternative Proposal with further evaluation of the Primary Proposal. It suggests technology-based subcategories and exemptions for system emergencies, arguing current CCS-based standards are unachievable and costly.
- Midwest Ozone Group (MOG) supports the Primary Proposal and agrees with the Alternative Proposal's rejection of 90% CCS and 40% co-firing as BSER. If the Alternative Proposal advances, MOG asks for new rulemaking and immediate suspension of unrepealed requirements.

Stakeholder Comments on GHG Repeal

- Power Generators Air Coalition (PGen) endorses the Alternative Proposal and adjustments to NSPS for new turbines, claiming it remedies legal defects and provides immediate relief from the 2024 Rule. PGen also critiques EPA's previous findings about fossil fuel-fired EGUs' contribution to air pollution.
- Edison Electric Institute (EEI) supports swift finalization of the Alternative Proposal, removal of unachievable CCS-based requirements, and continuation of subcategorization in Section 111 rules, while requesting targeted adjustments to Phase 1 standards and alternate compliance pathways.

Endangerment Finding Reconsideration

- August 1, 2025, EPA published its proposal, “Reconsideration of the 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards”.
- EPA’s reading of Section 202(a) as “target[ing] air pollution that threatens public health or welfare *through local or regional exposure*,” *not* air pollution that raises “global climate change concerns.”
- EPA also argues the Endangerment Finding improperly severed the emission standards from the endangerment finding and proposes that “section 202(a) requires issuing emission standards together with the findings necessary to invoke our regulatory authority.”
- In the alternative, section 202(a) authorizes GHG emission standards; the Endangerment Finding should be rescinded because there is “insufficient reliable information to retain the conclusion that GHG emissions from new motor vehicles and engines in the United States case or contribute to endangerment to public health and welfare in the form of global climate change.”



Separate Bases for the Proposed Repeal

- EPA identifies four separate bases for repeal of the GHG emission standards: (1) The lack of technology to meaningfully address GHGs from light and medium-duty vehicles; (2) The lack of technology to meaningfully address GHGs from heavy-duty vehicles; (3) The minimal impact of regulating GHGs from new vehicles, and (4) The costs associated with regulation that disincentivize the purchase of new vehicles, keeping less efficient vehicles on the road.

Potential Timeline for Endangerment Finding Repeal

Date	Milestones
Sept 18	Internal briefings
Sept 23- Oct 10	Final rule architecture shaped
October	Regulatory impact analysis and comment review begins (after decisions)
November 17	Rule to be sent to White House Office of Management and Budget for review
(Mid)December	Final rule expected to be published



National Environmental Policy Act: Regulatory Actions

- On February 25, 2025, the Council of Environmental Quality (CEQ) moved to revoke the National Environmental Policy Act (NEPA) implementing regulations from the Code of Federal Regulations.
 - The rationale to remove NEPA implementing regulations: 1) President Trump's revocation of EO 11991 and issuance of *Unleashing American Energy* (EO 14154), 2) CEQ's concerns about its statutory authority to maintain the NEPA implementing regulations in the absence of EO 11991, and 3) the lack of reliance interests with the removal of NEPA's implementing regulations.
 - CEQ guidance, Memorandum on Implementation of NEPA



Federal Agencies Streamline NEPA Procedures

Agency	Type of Update	Public Participations	Timeline Limits
Council of Environmental Quality (CEQ)	Rescission of binding regulations; issued guidance template	No longer mandates public comment on draft environmental impact statements (EISs)	Guidance only; agencies define limits
Dept. of Agriculture	Interim Final Rule; Rescission of bureau-level rules	Discretionary; varies by sub-agency	75 pages/1 year for EA; 150–300 pages/2 years for EIS
Dept. of Interior	Interim Final Rule; Slimmed-down regulations	Comments allowed from agencies and applicants only	Same as above
Dept. of Energy	Interim Final Rule; Adopted CEQ guidance	Discretionary	Same as above
Army Corps. of Engineers	Interim Final Rule; Removing most of its NEPA regulations for Civil Works (33 CFR part 230), except for sections on categorical exclusions (CXs), which remain to avoid uncertainty.		Sames as above

H.R. 4776 SPEED Act

- On July 25, 2025, House of Representatives Natural Resources Chairman Bruce Westerman (R-AK) & Rep. Jared Golden (D-ME) introduced H.R. 4776, SPEED Act.
 - NEPA procedure reforms, or changes to the process, agencies must undertake to comply with NEPA
 - Judicial review reforms, or changes to the way courts review agency NEPA decisions
- Many of the reforms included in the SPEED Act are efforts to codify parts of the *Seven Counties* U.S. Supreme Court decision.

H.R. 3898, the PERMIT Act

- On June 11, 2025, Representative Mike Collins (R-GA-10) introduced the Promoting Efficient Review for Modern Infrastructure Today (PERMIT) Act. The bill has six co-sponsors.
 - This bill limits the scope of the Clean Water Act by redefining navigable waters to exclude (1) waste treatment systems, (2) ephemeral features that flow only in direct response to precipitation, (3) prior converted cropland, (4) groundwater, or (5) any other features determined to be excluded by the U.S. Army Corps of Engineers.

H.R. 4503, the ePermit Act

- On July 17, 2025, U.S. Representatives Scott Peters (D-CA) and Dusty Johnson (R-SD) introduced the ePermit Act.
 - 180 days after enactment requires CEQ, the Federal Permitting Improvement Steering Council, Office of Management and Budget, and other relevant stakeholders to develop uniform federal standards for project permitting, financial assistance, and interoperable software systems.
 - The legislation also calls for the creation of digital tools to support environmental reviews and authorizations.
 - Provides transparency on the volume and status of NEPA reviews and related permits across federal agencies.

Proposal to Repeal MATS RTR Rule

On July 17, 2025, EPA issued a proposed rule to repeal the 2024 Amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) Coal-and Oil-Fired Electric Utility Steam Generating Units (EGUs).

- Repeal of stringent PM standards

- Monitoring systems flexibility

- Quality assurance criteria repeal

- Mercury emission standards reversion

Presidential Exemption Under CAA section 112(i)(4).



MATS Repeal Industry Comments

- Universal support repealing the 2024 MATS RTR fPM limits and retaining 0.30 lb/mmBtu;
- Retain the 2020 residual risk findings;
- There is broad support among industry groups and commenters for maintaining flexibility in compliance options, citing cost, technical limitations, and operational challenges associated with exclusive reliance on PM CEMS;
- Industry groups and affected utilities argue that the stricter Hg standard for lignite units is technically infeasible and economically unjustified, and support EPA's proposal to repeal it. They provide technical studies and cost analyses to reinforce their position, while also raising concerns about reliability impacts for regions dependent on lignite-fired generation.



MATS Repeal Environmental Groups Comments

- Critique of EPA's Cost Analysis
 - eNGOs reject EPA's focus on cost in setting filterable particulate matter (fPM) standards. They argue that the Clean Air Act requires the "maximum degree of reduction in emissions" that is "achievable," and only then should cost be considered. While acknowledging EPA's decade-long use of cost-effectiveness, they urge EPA to revisit statutory interpretation.
- Repeal Cost Analysis Insufficient
 - eNGOs present numerous critiques of EPA's cost analysis for the repeal, asserting it is not sufficient to overturn the findings of the 2024 MATS RTR.
- Omission of Broader Compliance Costs
 - Notably, eNGOs do not address compliance costs for other coal-fired units identified in D.C. Circuit litigation, many of which are now part of the MATS record.
- PM CEMS are Now "Cheaper" and "More Widely Used"
- Support for 1.2 lb/TBtu Hg Limit

Update on Coal Combustion Residual (CCR) Rulemakings

- On May 8, 2024, EPA finalized the Legacy Impoundment and CCR Management Units (CCRMUs) rulemaking
- On July 22, 2025, the EPA issued a proposed and direct final rule to extend the CCRMU deadlines in the Legacy rule.
- Reconsideration of Legacy CCR Rule
 - Proposal January 2026 and a final rule in October 2026
- Final Federal Permit Rule
 - December 2026
- The Beneficial Use Rulemaking
 - Long-term action

Potential Issues in the Legacy Reconsideration Rule

- Expands closure flexibilities and expands opportunities for beneficial use of CCR.
 - Address EPA's interpretation that on-site uses of CCR do not qualify as exempt beneficial uses under 40 C.F.R. 257.50(g) and reaffirm that, consistent with the regulations issued in 2015, all beneficial uses of CCR, whether on- or off-site, are exempt from all provisions of the federal CCR regulations.
- Definitions: contains liquids
- Scope of CCRMU applicability

Update: Steam Electric Effluent Limitation Guidelines

- On May 9, 2024, EPA issued its Supplemental Effluent Limitations Guidelines and Standards for Steam Electric Generating Point Sources (ELG Rule).
- EPA intends to pursue two rulemakings:
 - Phase I- Direct final rule to extend the notice of plan participation to cease coal combustion by 2034, and seek information on zero liquid discharge (ZLD) technologies.
 - Phase II- Potential revisions to discharge limits for unmanaged combustion residual leachate, revision to ZLD discharge standards.

Update: Endangered Species Reforms

- On February 3, 2025, Department of Interior (DOI) Secretary Doug Burgum signed six Secretary's Orders which call for DOI's bureaus and offices to implement President Trump's Energy Dominance Agenda directed in Trump's day one executive orders (EO).
 - Proposal on the definition of habitat under the Endangered Species Act (ESA)
 - Reconsideration of the ESA rules (Sections 4,4(d), 7 and 10).
 - Withdrawal of policy on mitigation and compensation mitigation
 - Reinstatement of policy on the Migratory Bird Treaty Act (MBTA).

H.R. 1897- ESA Amendments Act of 2025

- On March 6, 2025, House Representative Bruce Westerman (R-AR-4) introduced the Endangered Species Act of 2025.
 - The bill aims to clarify definitions within the Act, establish environmental baselines to measure recovery, and streamline the permitting process.
- ESA reforms are likely to be included in a broader permit package.

APPA Environmental Resources

Regulatory Filings

APPA Engage – Environmental

Environmental Update

Public Power Current

[Clean Energy Commitment Tracker](#)

[Public Power Energy Storage Tracker](#)

APPA Environmental Content
Survey



Thank you!

Questions?



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