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EPA Repeals Power Plant Carbon Pollution Standards and Proposes to Repeal All Power Plant Greenhouse Gas Emissions Standards

SEPTEMBER 17, 2026

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On September 14, 2026, the U.S. Environmental Protection Agency (EPA or Agency) issued a final rule repealing most provisions of the 2024 Carbon Pollution Standards for greenhouse gas (GHG) emissions from fossil fuel-fired electric generating units (EGUs). The final rule was accompanied by a supplemental proposal in which EPA proposes to rescind all remaining GHG emissions standards for power plants and to conclude that EPA lacks authority to regulate GHG emissions from EGUs under section 111 of the Clean Air Act (CAA). The supplemental proposal is subject to a 45-day public comment period, with comments due on or before November 2, 2026.

EPA's two-track regulatory approach creates both immediate implications for power plant owners and operators and longer-term uncertainty regarding the ultimate fate of all power plant GHG emissions standards. The abbreviated comment period signals EPA's interest in moving quickly toward a wholesale repeal of all GHG performance standards applicable to EGUs under CAA section 111. However, the timing and legal basis for that action may affect, and be affected by, arguments being litigated on state tort law liability in *Suncor Energy (U.S.A.) Inc. v. County Commissioners of Boulder County*, which is scheduled for oral argument before the Supreme Court on October 5, 2026. Power plant owners and operators should continue to monitor anticipated litigation over the final rule, as well as EPA's decision and rationale regarding the proposed wholesale repeal of power plant GHG emissions standards.

Final Rule: Partial Repeal of 2024 Carbon Pollution Standards

EPA's final rule repeals most of the 2024 Carbon Pollution Standards for GHG emissions from EGUs. Most importantly, EPA repealed:

- The emission guidelines prescribing standards for the subcategory of existing coal-fired steam generating units;
- The carbon capture and sequestration/storage (CCS)-based standards for the subcategory of existing coal-fired steam generating units undertaking a large modification; and
- The CCS-based Phase 2 standards for the subcategory of new base load natural-gas fired stationary combustion turbines.[1]

[1] In addition, the final rule repealed the GHG emission guidelines applicable to existing gas- and oil-fired steam units, which represent about 1.2% of generation and about 3.5% of the EGU source category. The basis for the repeal of these standards was not based on technical shortcomings but instead that the 2024 Carbon Pollution Standards limitations would yield few or no GHG emission reductions.

The repeal is based on EPA's reevaluation of the best system of emission reduction (BSER) determinations supporting each of these guidelines and standards in the 2024 rule.

With respect to CCS, EPA concluded that CCS based on 90 percent capture of carbon dioxide cannot meet the statutory requirements for the BSER for existing long-term coal-fired steam generating units. Specifically, EPA found that CCS with 90 percent capture has not been adequately demonstrated, its costs are unreasonable, and the associated degree of emission limitation is unachievable by the January 1, 2032 compliance date. EPA relied on similar reasoning to repeal the CCS-based standards for coal-fired steam generating units undertaking a large modification and for new base load stationary combustion turbines.

With respect to natural gas co-firing, EPA determined that 40 percent natural gas co-firing cannot be the BSER for existing medium-term coal-fired steam generating units because it constitutes impermissible generation shifting, would impose unreasonable energy-system impacts by using natural gas inefficiently, and is not achievable by the January 1, 2030 compliance date.

Notably, EPA did not revise or repeal the 2024 efficiency-based Phase 1 standards for the subcategory of new and reconstructed stationary combustion turbines that apply upon immediate startup of the new combustion turbines. EPA notes, however, that the supplemental proposal—once finalized—would repeal all GHG standards for fossil fuel-fired EGUs under CAA section 111, including the Phase 1 standards.

Supplemental Proposal: Repeal of Remaining Power Plant GHG Emissions Standards

Concurrent with the final rule, EPA issued a supplemental proposal in which it proposes to find that it lacks authority to regulate GHG emissions from fossil fuel-fired power plants under CAA section 111. If EPA finalizes this rule, the effect would be to rescind the remaining GHG emission standards in the 2024 rule as well as GHG emission standards that the Agency promulgated for new, modified, and reconstructed coal-fired EGUs in 2015.

EPA originally proposed a similar determination in 2025 (referred to as the "Primary Proposal"). In the proposed supplemental rule, the Agency explains that it is soliciting comment on additional legal rationales in support of rescinding EPA's authority to regulate global air pollutants under CAA section 111. These include rationales similar to those that the Agency relied upon in its rescission earlier this year of the 2009 GHG endangerment finding for mobile sources under section 202 of the CAA.

In the supplemental proposal, EPA asserts that power plant GHG emissions do not have local or regional impact and, as a result, do not satisfy section 111's trigger for regulation because the Agency cannot reasonably anticipate that GHG emissions from fossil-fuel fired EGUs cause or significantly contribute to the endangerment of public health or welfare. EPA also proposes that regulating power plant GHG emissions raises concerns under the major questions doctrine established in the Supreme Court's decision in *West Virginia v. EPA*. According to EPA's proposal, power plant GHG regulation represents an economically and politically significant assertion of the Agency authority for which clear authorization from Congress was required—and is lacking. EPA further proposes that regulation of power plant GHG emissions would be futile because, under EPA's modeling, eliminating all U.S. power-sector GHG emissions would have no more than a *de minimis* impact on key indicators of adverse impacts attributed to global climate change.

The supplemental proposal observes that EPA has regulated GHG emissions from other source categories under the CAA, including under section 111. To this end, the Agency notes that "regulations for the oil and gas source category under CAA section 111 have their own regulatory history and relevant considerations." The supplemental proposal further explains that the Agency "would address in a future rulemaking, as appropriate, the extent to which the proposed conclusions in this supplemental proposal and the [original 2025 proposed rule] with respect to the Agency's statutory authority under CAA section 111 require revisions to the [oil and gas methane standards]." Whether and how EPA's repeal of power plant and motor vehicle GHG emissions standards will affect the oil and gas methane standards therefore remains a complex, open question, as discussed previously in a VNF alert.

Implications for *Suncor Energy*

EPA's finalized partial repeal and proposal to repeal all remaining power plant GHG standards may complicate the federal government's position in *Suncor Energy*, which is currently scheduled for oral argument before the Supreme Court on October 5, 2026. In that case, energy companies have appealed a Colorado Supreme Court decision allowing the City of Boulder's climate-related state-law claims to proceed in state court.

The energy companies with support from the federal government have argued that the CAA displaces federal common law and preempts state-law claims with respect to climate-related harms. This rulemaking may complicate that argument because EPA has proposed that it lacks authority under CAA section 111 to regulate power plant GHG emissions.

EPA's supplemental proposal anticipates this issue. The Agency explains that the proposal would not alter the CAA's displacement of federal common-law claims or the CAA's preemption of state law. According to EPA, section 111 delegates to the Agency the authority to determine whether emissions of any pollutant exceed the statutory "endangerment" threshold—and, if so, how to regulate those emissions. The supplemental proposal states that "[a]dopting the approach proposed in this rulemaking would not disturb our authority to identify and regulate circumstances where emissions, including GHG emissions, satisfy the statutory threshold for listing and regulation." The Agency reasons that power plant GHG emissions cannot satisfy the statutory endangerment conditions that would trigger regulation under section 111. As a result, EPA maintains that the proposal should not affect the CAA's displacement and preemptive impacts, even if all power plant GHG standards are ultimately repealed.

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Key Takeaways

EPA's actions represent a significant rollback of federal power plant GHG regulation. While the final rule immediately eliminates components of the 2024 Carbon Pollution Standards, the supplemental proposal could eliminate the remaining federal framework for regulating power plant GHG emissions under CAA section 111 and, as a result, block a future EPA from adopting replacement GHG standards for EGUs under section 111. The proposal also raises broader questions regarding the future of EPA's GHG regulatory authority and the relationship between federal and state approaches to climate-related litigation. Stakeholders should closely monitor both the upcoming comment process and the litigation that is likely to follow.

For More Information

Van Ness Feldman counsels clients on air and climate laws and policies, including assisting with comments, compliance, and litigation. For further details or assistance with this rulemaking, please contact Kyle Danish, Britt Speyer Fleming, or any member of VNF's Environmental Team.