

# Midwest Ozone Group (MOG) Litigation Update

Presented to the  
CIBO

May 13, 2025

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# AGENDA

Good Neighbor Plan

Clean Power Plan 2

PM 2.5 NAAQS

Exceptional Events

Mercury and Air Toxic Substances (MATS)

Good Neighbor Plan (GNP)

88 Fed. Reg. 36654 (June 5, 2023)

<https://www.govinfo.gov/content/pkg/FR-2023-06-05/pdf/2023-05744.pdf>

# GNP Emission Reductions

(NOx tons)

2023

EGUs (SCR/SNCR Optimization)	16,282
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2026

EGUs (SCR/SNCR Retrofit)	55,672
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Non-EGU*	44,616
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\*Pipelines, Cement, Steel, Glass, Ore Mining, Chemicals, Paper, Incinerators

- Annual Cost: \$910 Million

# State Petitioners

States involved:

Utah

Nevada

Ohio

Indiana

West Virginia

Seeking to make the rule less stringent

# Non EGU Petitioners

Midwest Ozone Group

Pipelines: Kinder Morgan

Interstate Natural Gas Association

American Petroleum Institute

Enbridge

American Chemistry Council

American Fuel & Petroleum Manufacturers

TransCanada Pipeline

Paper: American Forest & Paper Association

Steel: American Iron and Steel Institute

Hybar

United States Steel Corp

Cement: Portland Cement Association

Arkansas League of Good Neighbors

# EGU Petitioners

Midwest Ozone Group

Associated Electric Cooperative, Inc.

Deseret Power Electric Cooperative

Ohio Valley Electric Corporation

Wabash Valley Power Alliance

America's Power

National Rural Electric Cooperative Association

National Mining Association

Ameren Missouri

# Wisconsin

Seeking to make the Rule more stringent

Issues:

1. Under-control of States upwind
2. Failure to regulate mobile source emissions
3. Failure to regulate VOC emissions

MOG has intervened as respondent to Wisconsin



# Stay Status Update

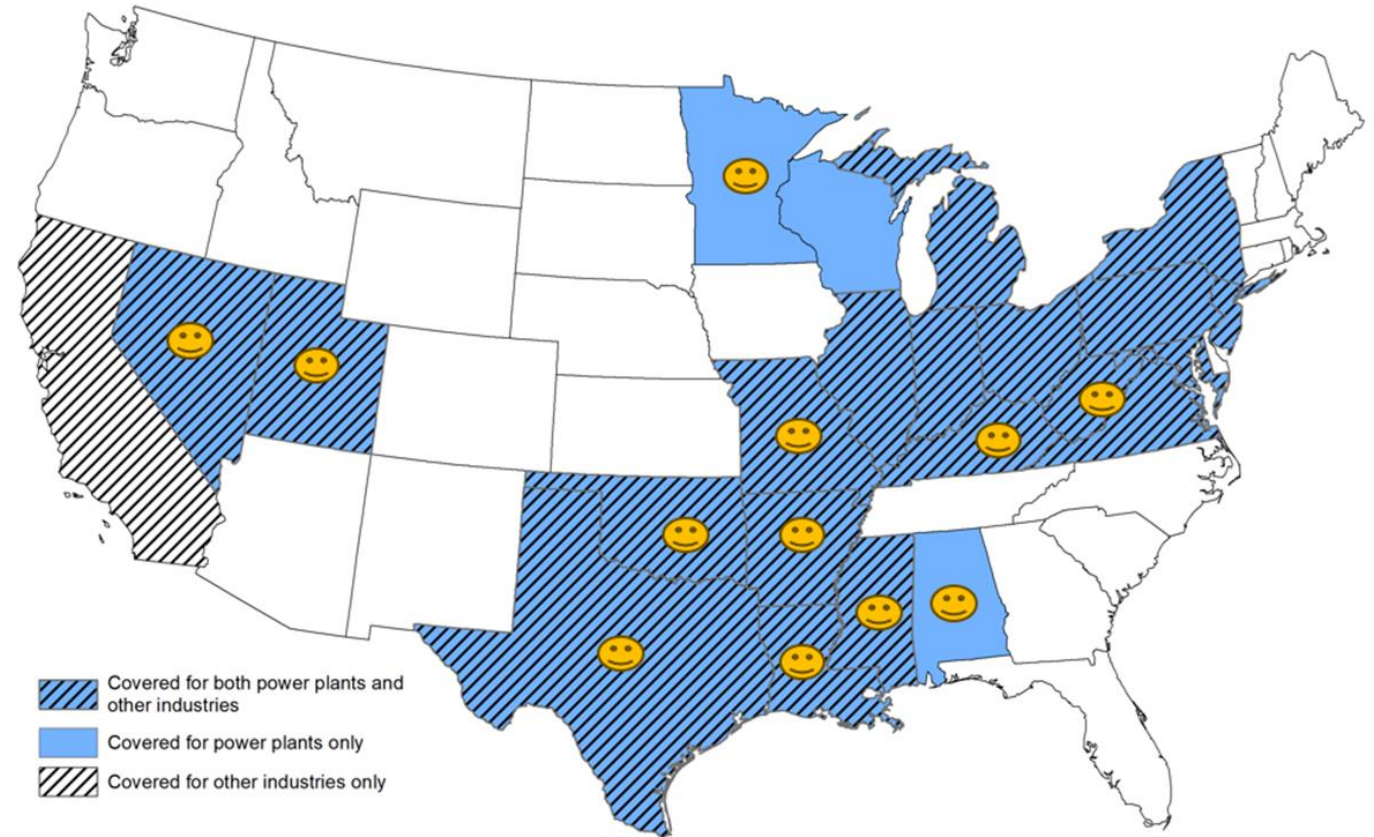
Rule was stayed in 12 states.

The settlement agreement for Nevada will allow Nevada's stay to be lifted, bringing that number to eleven.

Stayed emission reductions:

EGUs 89%

Non EGUs 60%



# Supreme Court Stay

June 27, 2024

“Perhaps there is some explanation why the number and identity of participating States does not affect what measures maximize cost-effective downwind air-quality improvements. But if there is an explanation, it does not appear in the final rule. As a result, the applicants are likely to prevail on their argument that EPA’s final rule was not “reasonably explained,” ... that the agency failed to supply “a satisfactory explanation for its action[,]” ... and that it instead ignored “an important aspect of the problem” before it, *ibid*. The applicants are therefore likely to be entitled to “revers[al]” of the FIP’s mandates on them. Id at 13.”

...

“the Clean Air Act prevents us (and courts that may in the future assess the FIPs merits) from consulting explanations and information offered after the rule’s promulgation.”

# Partial Remand

- August 5, 2024 Merits briefing completed
- August 5, 2024 EPA Motion for Partial Voluntary Remand:  
“In light of the Supreme Court’s decision in Ohio, EPA has decided to seek a partial remand of the Good Neighbor Plan to fully consider and respond to the relevant comments.
- September 12, 2024 D.C. Circuit grants partial remand.
- December 10, 2024 EPA Notice of Partial Remand Response
- February 7, 2025 MOG Petition for Review of Remand Response

# MOG Petition for Reconsideration of Partial Remand

February 7, 2025

1. Numerous concerns stated in merits briefs
2. Need certainty of SIP disapprovals
3. Must support rule on the record
4. Meaningful air quality improvement must be demonstrated for FIP controls
5. Must use CAMx/IPM – not AQAT; AQAT assessed units that IPM considered retired; other emission reductions were double counted.

# Comparison to units with no emissions

						Ozone Season NOx	
						Emissions (Tons)	
FIPS	State	County	ORISD	BLRID	Plant Name	IPM-2023	EA-2023 Budget
17021	IL	Christian Co	876	1	Kincaid Generating Station	0	310
18051	IN	Gibson Co	6113	4	Gibson	0	527
18125	IN	Pike Co	994	4	IPL - Petersburg Generating Station	0	505
18147	IN	Spencer Co	6166	MB1	Rockport	0	794
18147	IN	Spencer Co	6166	MB2	Rockport	0	880
18165	IN	Vermillion Co	1001	1	Cayuga	0	473
21015	KY	Boone Co	6018	2	East Bend	0	1,012
21183	KY	Ohio Co	6823	W1	D B Wilson	0	609
22077	LA	Pointe Coupee Par	6055	2B3	Big Cajun 2	0	380
27061	MN	Itasca Co	1893	4	Boswell Energy Center	0	920
27061	MN	Itasca Co	1893	3	Boswell Energy Center	0	314
39095	OH	Lucas Co	2878	1	Bay Shore	0	228
42021	PA	Cambria Co	10143	AAB01	Colver Green Energy	0	123
42063	PA	Indiana Co	3122	3	Homer City	0	280
49015	UT	Emery Co	6165	1	Hunter	0	1,298
49015	UT	Emery Co	8069	2	Huntington	0	1,593
51195	VA	Wise Co	56808	2	Virginia City Hybrid Energy Center	0	148
54049	WV	Marion Co	10151	1A	Grant Town Power Plant	0	78
55011	WI	Buffalo Co	4271	B1	J P Madgett	0	321
55079	WI	Milwaukee Co	4041	8	South Oak Creek	0	223
88687			7790	1-1	Bonanza	0	2,204

# EPA Motion for Voluntary Remand

March 10, 2025

- a. “EPA intends to reconsider the scope of the States included in the Good Neighbor Plan as finalized on March 15, 2023. EPA may revisit determinations made in its national approach to evaluating which States are considered to be contributing to downwind air quality problems.
- b. “EPA intends to reconsider the scope of emissions sources covered by the Good Neighbor Plan. In addition to EGUs, EPA included other industrial sources (non-EGUs) in its Step 3 analysis following a screening assessment to identify potentially impactful source types and finalized emissions limitations for certain non-EGU sources through an analysis that paralleled the analysis conducted for EGUs. However, EPA may need to revise conclusions it reached through its assessment of non-EGU industrial sources.
- c. “EPA intends to reconsider the analyses completed to determine what constitutes “significant contribution,” such as re-evaluating the feasibility and/or cost of emissions controls for covered sources, appropriate cost thresholds for control stringency, and the air quality impact of such controls. This may also include how the definition of “significant contribution” relates to the implementation mechanisms for achieving any required emissions reductions.

# EPA Deregulation Announcement

March 12, 2025

“Ending so-called “Good Neighbor Plan” which the Biden-Harris Administration used to expand federal rules to more states and sectors beyond the program’s traditional focus and led to the rejection of nearly all State Implementation Plans.”

# Powering the Great American Comeback Fact Sheet

## Good Neighbor Plan

[https://www.epa.gov/system/files/documents/2025-03/good-neighbor-plan\\_powering-the-great-american-comeback\\_fact-sheet.pdf](https://www.epa.gov/system/files/documents/2025-03/good-neighbor-plan_powering-the-great-american-comeback_fact-sheet.pdf)

- Reasons for Action: burdensome on industry and states; unleash development of domestic energy and manufacturing; respect state choices in cooperative federalism; alleviate burdens on electric power, pipelines, cement, iron and steel, glass, ore mining chemical, petroleum and coal, pulp and paper and solid waste combustion
- Pulls cement, iron and steel, paper and glass into complex program
- Responds to Executive Orders 14154, 14179, 14192



# Presidential Memorandum

## April 9, 2025

- Directing the Repeal of Unlawful Regulations

<https://www.whitehouse.gov/presidential-actions/2025/04/directing-the-repeal-of-unlawful-regulations/>

<https://www.whitehouse.gov/fact-sheets/2025/04/fact-sheet-president-donald-j-trump-directs-repeal-of-regulations-that-are-unlawful-under-10-recent-supreme-court-decisions/>

This review-and-repeal effort shall prioritize, in particular, evaluating each existing regulation's lawfulness under the following United States Supreme Court decisions:

1. *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024) (agency deference)
2. *West Virginia v. EPA*, 597 U.S. 697 (2022) (Climate Change)
3. *SEC v. Jarkesy*, 603 U.S. 109 (2024)
4. *Michigan v. EPA*, 576 U.S. 743 (2015) (MATS)
5. *Sackett v. EPA*, 598 U.S. 651 (2023) (WOTUS)
6. *Ohio v. EPA*, 603 U.S. 279 (2024) (GNP)
7. *Cedar Point Nursery v. Hassid*, 594 U.S. 139 (2021)
8. *Students for Fair Admissions v. Harvard*, 600 U.S. 181 (2023)
9. *Carson v. Makin*, 596 U.S. 767 (2022)
10. *Roman Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14 (2020).

# D.C. Circuit Justification for Abeyance Order (May 2, 2025)

- Judge Rao (Judge Walker joining) and Judge Wilkins filed statements.
- Rao offers the following:
  - *“Regulatory challenges sometimes involve intervenors who support the government’s efforts to regulate other parties. We have generally declined to consider the hardship to such respondent-intervenors when an agency seeks to reconsider a regulation.... **Respondent-intervenors defending the regulation of others do not suffer such traditional harms; they merely benefit from the rule’s regulation of other parties and stand to lose that benefit if the rule disappears. As such, their interests are generally not part of the hardship inquiry.**”*
  - *“We have previously explained that abeyance is appropriate when an agency contemplates “a complete reversal of course ... that, if adopted, would necessitate substantively different legal analysis and would likely moot the analysis we could undertake if deciding the case now.” Am. Petrol. Inst., 683 F.3d at 388–89. **Allowing EPA to reconsider the rule might obviate the need for our review and avoid the unnecessary expenditure of judicial resources in a matter of immense complexity.**”*

# D.C. Circuit Justification for Abeyance Order (May 2, 2025)

## Rao (continued):

- *“Even assuming we should consider the interests of Respondent-Intervenors, their claims of hardship are unavailing. As part of the hardship analysis, this court may consider “the likelihood that the [relevant parties] will prevail when the case is finally adjudicated.” Basardh, 545 F.3d at 1069. **The Supreme Court has already held that the challenges to the rule are likely to prevail on the merits, which suggests there will be less potential prejudice to Respondent-Intervenors from delaying our review. See Ohio, 144 S. Ct. at 2054.**”*
- *“[g]ranting remand here would likely leave petitioners without judicial recourse if EPA ultimately fails to follow through with a new rulemaking or resumes enforcement of the challenged rule.”*

## Wilkins’ statement:

- Wilkins offered a more limited statement but notably **bases the decision to grant the requested abeyance on EPA’s decision to reconsider the GNP and complete associated rulemaking by Fall 2026** as well as “the emergency stay of the Rule entered by the Supreme Court.”

It continues to be abundantly clear that the SCOTUS Stay has been absolutely crucial to the procedure that has followed in the lower court since last June.

# Abeyance

- While the case is held in abeyance pending further order from the court,
  - the case will continue until which point we have a new rulemaking from EPA – likely Fall 2026.
  - Parties are required to file status update filings at 90-day intervals beginning July 14, 2025 and motions to govern future proceedings will be due within 30 days of the agency's completion of its review of the GNP.

Clean Power Plan 2

89 Fed. Reg. 39,798 (May 9, 2024)

<https://www.govinfo.gov/content/pkg/FR-2024-05-09/pdf/2024-09233.pdf>

# Existing Coal-Fired Units GHG Guidelines

## **Units retiring after Dec 31, 2038**

- Carbon Capture and Sequestration (CCS) required to be in place beginning Jan 1, 2032
- Emission limitation – 88.4% reduction in existing baseline CO<sub>2</sub> emission rate

## **Units retiring between Jan 1, 2032, and Dec 31, 2038**

- Emissions rate equal to 40% natural gas cofiring beginning Jan 1, 2030 (calculated annually at the unit level)
- Emission limitation – 16% reduction in existing baseline CO<sub>2</sub> emission rate

## **Units retiring by Dec 31, 2031 – no requirements**

## **State Plans – due 2 years after the effective date of the final regulation**

- Retirement dates for all coal-fired units must be included
- Some states are asking for affected units to provide unit specific retirement dates by mid-2025
- Compliance can be achieved using alternative technologies

# New Combustion Turbines GHG Rules

**Low Load Turbines** (less than 20% capacity factor) - use of lower emitting fuels (e.g. natural gas, distillate oil, etc.)

**Intermediate Load Turbines** (20% - 40% capacity factor) - Highly efficient simple cycle technology (emission limitation: 1,170 lb CO<sub>2</sub>/MWh-gross).

**Base Load Turbines** (40% or more capacity factor)

- Phase 1 BSER – Highly efficient combined cycle generation (emission limitation: 800 lb CO<sub>2</sub>/MWh-gross).
- Phase 2 BSER – 90 % CO<sub>2</sub> removal by CCS beginning Jan 1, 2032

# GHG Petitioners

State of West Virginia; State of Indiana; State of Alabama; State of Alaska; State of Arkansas; State of Florida; State of Georgia; State of Idaho; State of Iowa; Commonwealth of Kentucky; State of Louisiana; State of Mississippi; State of Missouri; State of Montana; State of Nebraska; State of New Hampshire; State of North Dakota; State of Oklahoma; State of South Carolina; State of South Dakota; State of Tennessee; State of Texas; State of Utah; Commonwealth of Virginia; State of Wyoming; State of Ohio; State of Kansas;

National Rural Electric Cooperative Association; National Mining Association; America's Power; Oklahoma Gas and Electric Company; Electric Generators for a Sensible Transition; United Mine Workers of America, AFL-CIO; International Brotherhood of Electrical Workers, AFL-CIO; International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, AFL-CIO; Midwest Ozone Group; Edison Electric Institute; NACCO Natural Resources Corporation; Idaho Power Company; Appalachian Region Independent Power Producers (ARIPPA); Rainbow Energy Center, LLC; Montana-Dakota Utilities Co.; Westmoreland Mining Holdings LLC; Westmoreland Mining LLC; Westmoreland Rosebud Mining LLC



# GHG Litigation

Supreme Court Application for Stay

Denied: October 16, 2024

Justice Thomas would grant the application for stay.

Statement of Justice Kavanaugh, with whom Justice Gorsuch joins, respecting the denial of applications for stay:

“In my view, the applicants have shown a **strong likelihood of success on the merits** as to at least some of their challenges to the Environmental Protection Agency’s rule. But because the applicants need not start compliance work until June 2025, they are **unlikely to suffer irreparable harm** before the Court of Appeals for the D. C. Circuit decides the merits. So this Court understandably denies the stay applications for now. Given that the **D. C. Circuit is proceeding with dispatch**, it should resolve the case in its current term. After the D. C. Circuit decides the case, the **nonprevailing parties could, if circumstances warrant, seek appropriate relief** in this Court pending this Court’s disposition of any petition for certiorari, and if certiorari is granted, the ultimate disposition of the case.”

# GHG Litigation

**Briefing Schedule**  
**Oral Argument**

**September 6, 2024 – October 25, 2024**  
**December 6, 2024**

**Industry Petitioners:** EPA failed to consider infrastructure (pipelines and storage) and relied future developments of CCS not authorized by CAA.

EPA's selection and application of 40% natural gas co-firing results in moving coal generation to gas and is a major shift that violates major question principles in *WV v EPA*. In addition, many plants do not have access to gas.

**State Petitioners:** This rule is designed to move the states out of the program giving them no meaningful opportunity for input violating the CAA. (Addressed in Sections III and IV of both Petitioners' and Respondents' briefs.)

# **GHG Litigation**

## **EPA Abeyance Motion Granted**

### **February 5, 2025, Motion to Hold Case in Abeyance**

“Due to the recent change in administration on January 20, 2025, there is new EPA leadership. Those new Agency officials are currently in the process of onboarding and familiarizing themselves with the issues presented in this case and related litigation. To provide new leadership with sufficient time to familiarize themselves with these issues and determine how they wish to proceed, the government respectfully requests that the Court withhold issuing an opinion and place this case in a brief abeyance, with a status report or motion to govern from EPA due in 60 days.”

**DC Circuit Order, February 19, 2025** – motion granted; cases be held in abeyance until further order of Court; EPA to file motions to govern by April 21, 2025.

**No stay in effect**

# DOJ Request for Consent for Further Abeyance

- April 16, 2025 DOJ provided, “EPA last month announced its intention to reconsider the rule under review in this case through a new notice-and-comment rulemaking. **EPA has additionally stated on its website its intention to issue a proposed reconsideration rule in Spring 2025 and to issue a final rule by December 2025.** See <https://www.epa.gov/stationary-sources-air-pollution/greenhouse-gas-standards-and-guidelines-fossil-fuel-fired-power>. **In view of the forthcoming reconsideration proceeding, Respondents intend to move the Court to keep the case in abeyance, with 90-day status reports.** I would appreciate it if you could let me know by tomorrow afternoon whether the parties consent to such further abeyance.”

# Executive Order - GHG Endangerment Findings

“Unleashing American Energy” January 20, 2025; <https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-american-energy/>

“Within 30 days of the date of this order, the Administrator of the EPA, in collaboration with the heads of any other relevant agencies, shall submit joint recommendations to the Director of OMB on the legality and continuing applicability of the Administrator’s findings, “Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act,” Final Rule, 74 FR 66496 (December 15, 2009).”

- Endangerment finding not addresses in WV v. EPA
- Could be a “major question”
- No GHG rule has yet been implemented for power plants
- Rules have little impact on climate change
- Role for Congress

# **EPA Deregulation Announcement**

## **March 12, 2025**

“Reconsideration of regulations on power plants (Clean Power Plan 2.0)

“Reconsideration of the 2009 Endangerment Finding and regulations and actions that rely on that Finding (Endangerment Finding).

# **Powering the Great American Comeback Fact Sheet**

## **Power Plant Carbon Dioxide Rule**

[https://www.epa.gov/system/files/documents/2025-03/power-plant-carbon-dioxide-rule\\_powering-the-great-american-comeback\\_fact-sheet.pdf](https://www.epa.gov/system/files/documents/2025-03/power-plant-carbon-dioxide-rule_powering-the-great-american-comeback_fact-sheet.pdf)

- Reasons for Action: concern about statutory authority, technology not adequately demonstrated, unleashes homegrown energy, concerns about burden on gas and coal fired plants, concerns about cost to utilities and customers
- Responds to Executive Orders 14154, 14179, 14192

PM 2.5 NAAQS

89 Fed. Reg. 16202 (March 6, 2024)

<https://www.govinfo.gov/content/pkg/FR-2024-03-06/pdf/2024-02637.pdf>



# PM NAAQS

## Final PM 2.5 NAAQS

- Annual PM 2.5 NAAQS: 9 ug/m<sup>3</sup>
- Effective Date: May 6, 2024

# Implementation deadlines

January 1, 2025 States exceptional events notification

February 7, 2025 States exceptional events demonstration(s) submittal

February 7, 2025 States submittal of attainment recommendations

February 6, 2026 EPA attainment designations (based on 2022 – 2024)

February 6, 2027 States submittal of Good Neighbor Plans

August 6, 2027 States submittal of 2032 nonattainment plans

# Petitioners' Opening Briefs

1. NAAQS cannot be used to address climate agenda
2. Failure to justify reconsideration of 2020 action
3. Failure to follow 2-step process – “whether” and “how”
4. Failure to consider cost, attainability, current air quality

# Midwest Ozone Group Amicus Brief

Revised NAAQS causes significant harm.

Significant implications for permitting sources (PSD).

Modeling platform concerns.

Failed to consider data adjustments to air quality monitors used.

# Litigation Schedule

June 6, 2024	Petitioners' Opening Briefs
June 12, 2024	Amicus Brief
August 19, 2024	EPA's Response Brief
September 30, 2024	Petitioners' Reply Briefs
October 15, 2024	Final Briefs
December 16, 2024	Oral Argument

# Abeyance Motion

EPA Motion to Hold Case In Abeyance (2/18/2025)

Motion granted (2/25/2025)

Case to be held in abeyance until further order of the Court;  
EPA to file motion to govern by April 28, 2025

No Stay in effect

# Powering the Great American Comeback Fact Sheet PM 2.5 NAAQS

[https://www.epa.gov/system/files/documents/2025-03/pm-naaqs\\_powering-the-great-american-comeback\\_fact-sheet.pdf](https://www.epa.gov/system/files/documents/2025-03/pm-naaqs_powering-the-great-american-comeback_fact-sheet.pdf)

- Reasons for Action: Concerns about statutory authority, appropriateness of the reconsideration of 2020 PM NAAQS, align standard setting with CAA and alleviate unnecessary burdens
- Costs are high, burdens on states for planning, hinders manufacturing
- Responds to Executive Orders 14154, 14192

# Illinois NAA Recommendation

- Comment deadline: March 31, 2025
- MOG Comments:
  1. Recommendation should not default to be the same as used for other NAAQS.
  2. At a minimum Monroe County and Baldwin Township should not be included in NAA.
  3. Consider assessing and correcting PM2.5 data from Teledyne monitors.
  4. Strongly consider early certification and incorporation of 2024 design value data.
  5. Develop wildfire exceptional events demonstrations for monitors in the state.
  6. As necessary, the NAA recommendations should be delayed to allow these tasks to be performed.



Exceptional Events

81 Fed. Reg. 68216 (October 3, 2016)

<https://www.govinfo.gov/content/pkg/FR-2016-10-03/pdf/2016-22983.pdf>

Clean Air Act Section 319(b)

# Exceptional Events 6<sup>th</sup> Circuit Litigation

**23-3581**

*Air Plan Approval; Michigan;  
Clean Data Determination for  
the Detroit Area for the 2015  
Ozone Standard*

88 Fed. Reg. 32,584  
(May 19, 2023)

EPA-R05-OAR-2023-0058

**23-3583**

*Air Plan Approval; Michigan;  
Redesignation of the Detroit, MI  
Area to Attainment of the 2015  
Ozone Standards*

88 Fed. Reg. 32,594  
(May 19, 2023)

EPA-R05-OAR-2022-0004

# MOG Amicus Arguments

- I. The Clean Air Act along with EPA regulations and guidance documents provide a map for having exceedances excluded
- II. By following the map for having exceedances excluded, Michigan demonstrated to EPA's satisfaction that wildfire caused exceedances
- III. Sierra Club does not claim Michigan failed to follow EPA's map, rather it disagrees with EPA's scientific and technical judgment
- IV. Environmental Amici want to rewrite the Clean Air Act and Exceptional Events Rule by requiring the consideration of new conditions

# Oral Argument

- Panel consisted of: Judges Cole, White, and Davis.
- Oral argument was held on December 12, 2024.
- Awaiting decision

# MOG Exceptional Events Comments

Southeast Wisconsin

[https://www.midwestozonegroup.com/\\_files/ugd/7ec07f\\_875fc1f0096c49c087f5145559e7dccc.pdf](https://www.midwestozonegroup.com/_files/ugd/7ec07f_875fc1f0096c49c087f5145559e7dccc.pdf)

Port Allen, LA (Saharan Dust)

[https://www.midwestozonegroup.com/\\_files/ugd/7ec07f\\_f3e46195faf84a6aa4e35caa8b5fcfaf.pdf](https://www.midwestozonegroup.com/_files/ugd/7ec07f_f3e46195faf84a6aa4e35caa8b5fcfaf.pdf)

Port Allan, LA (Canadian Wildfire)

[https://www.midwestozonegroup.com/\\_files/ugd/7ec07f\\_33be7898f06a4f67864576c54fa3cf47.pdf](https://www.midwestozonegroup.com/_files/ugd/7ec07f_33be7898f06a4f67864576c54fa3cf47.pdf)

Columbus, Ohio [https://www.midwestozonegroup.com/\\_files/ugd/7ec07f\\_188df4daf70d46ada59f3bbce7a5be4f.pdf](https://www.midwestozonegroup.com/_files/ugd/7ec07f_188df4daf70d46ada59f3bbce7a5be4f.pdf)

Martinsburg, West Virginia

[https://www.midwestozonegroup.com/\\_files/ugd/7ec07f\\_eabacd59e4a44e939c2a7c429a7b047b.pdf](https://www.midwestozonegroup.com/_files/ugd/7ec07f_eabacd59e4a44e939c2a7c429a7b047b.pdf)

Toledo, Ohio [https://www.midwestozonegroup.com/\\_files/ugd/7ec07f\\_e6f7413b79d04cfab1bc94b74a6fecde.pdf](https://www.midwestozonegroup.com/_files/ugd/7ec07f_e6f7413b79d04cfab1bc94b74a6fecde.pdf)

[https://www.midwestozonegroup.com/\\_files/ugd/7ec07f\\_0f3023875c784ab09076fe2c14b99f3d.pdf](https://www.midwestozonegroup.com/_files/ugd/7ec07f_0f3023875c784ab09076fe2c14b99f3d.pdf)

Mecklenburg/Davidson Counties, North Carolina

[https://www.midwestozonegroup.com/\\_files/ugd/7ec07f\\_ebe7acda4b234d688b245ce9e86f0c4d.pdf](https://www.midwestozonegroup.com/_files/ugd/7ec07f_ebe7acda4b234d688b245ce9e86f0c4d.pdf)

Georgia [https://www.midwestozonegroup.com/\\_files/ugd/7ec07f\\_6f2d6a7c162c4d0fb41f31f2abf6ff0d.pdf](https://www.midwestozonegroup.com/_files/ugd/7ec07f_6f2d6a7c162c4d0fb41f31f2abf6ff0d.pdf)

Harrison, Travis, Kleberg Counties, Texas

[https://www.midwestozonegroup.com/\\_files/ugd/7ec07f\\_6f2d6a7c162c4d0fb41f31f2abf6ff0d.pdf](https://www.midwestozonegroup.com/_files/ugd/7ec07f_6f2d6a7c162c4d0fb41f31f2abf6ff0d.pdf)

Louisville, Kentucky [https://www.midwestozonegroup.com/\\_files/ugd/7ec07f\\_6fd3fe6488c247b384f7ef5778e659d7.pdf](https://www.midwestozonegroup.com/_files/ugd/7ec07f_6fd3fe6488c247b384f7ef5778e659d7.pdf)

# MOG Comments on T640/T640X Data Correction

- On May 16, 2024, EPA “retroactively applied the approved modification of the Federal Equivalent Method (FEM) designation for the Teledyne Advanced Pollution Instrumentation Model T640 particulate matter (PM) mass monitor including the 640X option (hereafter T640 and T640X) to all of the concentration data for PM with a diameter 2.5 micrometers or smaller (PM<sub>2.5</sub>) from the T640 and T640X monitors in the EPA’s Air Quality System (AQS) that was reported prior to the modification. The EPA processed the unmodified hourly PM<sub>2.5</sub> concentration data in AQS using collocated or paired ambient temperature when available.
- MOG filed comments in support of the proposed data adjustment on March 14, 2024

# Powering the Great American Comeback Fact Sheet Exceptional Events

<https://www.epa.gov/system/files/documents/2025-03/fact-sheet-reevaluation-of-exceptional-events-data.pdf>

- Reasons for Action: States cannot prevent this pollution, Congress provided authority, current process is burdensome and should be simplified
- Responds to Executive Order 14192

# **EPA Deregulation Announcement**

## **March 12, 2025**

“Reconsideration of exceptional events rulemaking to work with states to prioritize the allowance of prescribed fires within State and Tribal Implementation Plans (Exceptional Events)”



# International Transport

April 7, 2025

“Administrator Lee Zeldin announced today that the agency is rescinding Guidance on the Preparation of Clean Air Act Section (CAA) 179B Demonstrations for Nonattainment Areas Affected by International Transport of Emissions.” It was indicated that such determinations would be made on a case-by-case basis.

States should not be penalized for air pollution beyond their control, including pollution crossing international borders into the United States. The CAA provides regulatory relief when an area would have attained a National Ambient Air Quality Standard but for international transport of emissions.

<https://www.epa.gov/newsreleases/administrator-zeldin-moves-forward-ensuring-us-states-are-not-punished-foreign-air>

MATS

NESHAP for Coal- and Oil-fired Generating Units

89 Fed. Reg 38508 (May 7, 2024)

<https://www.govinfo.gov/content/pkg/FR-2024-05-07/pdf/2024-09148.pdf>

# MATS

- On May 7, 2024, EPA published (89 Fed Reg 38,508) a final rule to strengthen and update the NESHAPS for EGUs, commonly known as the MATS for power plants, based on an evaluation of the residual risk and technology review (RTR).
- Final rule is effective July 8, 2024
- Appeal deadline was July 8, 2024

# MATS

- Revised non-Hg HAP metal surrogate fPM emission standard for all existing coal-fired EGUs of 0.010 lb/MMBtu
- All coal- and oil-fired EGUs demonstrate compliance using PM CEMS.
- Removal of the fPM LEE program.
- Alternative emission limits for lead, arsenic, chromium, nickel, and cadmium, total non-Hg HAP metals proportional to the finalized fPM emission limit of 0.010 lb/MMBtu.
- More protective Hg emission standard for existing lignite fired EGUs
- Removal of the second option for defining the startup period for MATS-affected EGUs, i.e., the 4-hour startup period duration in 40 CFR 63.10042

## MATS Litigation

### **D.C. Circuit Briefing Schedule Completed**

- |  |                   |
|--|-------------------|
| • Petitioners' Opening Briefs                      | October 1, 2024   |
| • Brief of Intervenor Supporting Petitioners       | October 8, 2024   |
| • Respondent's Brief                               | November 12, 2024 |
| • Intervenor's Supporting Respondent               | November 19, 2024 |
| • Petitioners Reply Brief                          | November 26, 2024 |
| • Reply Brief of Intervenor supporting Petitioners | December 3, 2024  |
| • Deferred Appendix                                | December 6, 2024  |
| • Final Briefs                                     | December 10, 2024 |

# MATS Litigation

## D.C. Circuit Briefs

Oral argument initially scheduled March 27, 2025

February 6, 2025-DOJ requested that, “[d]ue to the recent change in administration on January 20, 2025, there is new EPA leadership .... move to place the petitions for review of the MATS rule in abeyance pending review by the new EPA officials.”

February 13, 2025; EPA filed unopposed motion to “postpone the oral argument currently scheduled for March 27, 2025, and hold these consolidated petitions for review in abeyance for 90 days

**February 20, 2025: Court Order removed cases from the March 27, 2025, oral argument calendar and held cases in abeyance pending further order of the court; directing respondents to file motions to govern future proceedings by 05/21/2025**

# Powering the Great American Comeback Fact Sheet MATS

<https://www.epa.gov/system/files/documents/2025-03/fact-sheet-reconsideration-of-mercury-and-air-toxics-standards.pdf>

- Reasons for Action: Regulation may not be consistent with Clean Air Act; estimated costs to power plants are large; concerned about undue burden on certain coal-fired power plants; underestimated the compliance costs; no meaningful public health benefits to be gained from the rule's mandated reduction in HAP emissions.
- Responds to Executive Order 14154, 14179, and 14192

# **EPA Deregulation Announcement**

## **March 12, 2025**

“Reconsideration of Mercury and Air Toxics Standards that improperly targeted coal-fired power plants (MATS).”



# Presidential Exemption

<https://www.epa.gov/stationary-sources-air-pollution/clean-air-act-section-112-presidential-exemption-information>

March 12, 2025

“The Clean Air Act allows the President to exempt stationary sources of air pollution from compliance with any standard or limitation under section 112 for up to two years if the technology to implement the standard is not available and it is in the national security interests of the United States to do so.”

April 8, 2025 Presidential Order proclaims “that certain stationary sources subject to the Rule, as identified in Annex I of this proclamation, are exempt from compliance with the Rule for a period of 2 years beyond the Rule’s compliance date — *i.e.*, for the period beginning July 8, 2027, and concluding July 8, 2029 (Exemption). The effect of this Exemption is that, during this 2-year period, these stationary sources are subject to the compliance obligations that they are currently subject to under the MATS as the MATS existed prior to the Rule.”

47 plants

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