

June 13, 2025

## EPA Proposes Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel Power Plants

By Annemargaret Connolly, Seth  
Kerschner, Matthew Morton,  
Graham McHenry

On June 11, 2025, the US Environmental Protection Agency (“EPA”) released two alternative proposed rules, each of which would repeal greenhouse gas (“GHG”) emissions control requirements for new and existing fossil fuel-fired power plants under the federal Clean Air Act.<sup>1</sup>

### Proposal 1 – Repeal All GHG Emissions Standards and Guidelines for the Power Sector

Under the first proposal, EPA proposes that it should only regulate GHG emissions from fossil fuel-fired power plants if these emissions contribute significantly to dangerous air pollution that may reasonably be anticipated to endanger public health or welfare. In this proposal, EPA concludes that EPA should not regulate GHG emissions from fossil fuel-fired plants because these emissions do not contribute significantly to such dangerous air pollution.

EPA’s proposal contemplates interpreting “contributes significantly” based on the impact of the resulting regulation. EPA asserts that regulating GHG emissions from fossil fuel-fired power plants under the Clean Air Act would not have a significant effect on GHG air pollution or public health or welfare impacts attributed to such air pollution, and that the contribution of GHG emissions from these plants is not significant. EPA supports its proposal by explaining that (1) GHG emissions from US fossil fuel-fired power plants are a small and decreasing part of global GHG emissions; (2) cost-effective control measures are not reasonably available; and (3) the current Presidential administration’s national policy is that energy production is essential to public welfare, which entails continued and increasing reliance on fossil fuels to meet electricity generation demands.

EPA maintains that existing GHG emissions control regulations should be repealed because such emissions do not contribute significantly to dangerous air pollution and that only extraordinary emissions reductions on a global scale would have any impact on the potential endangerment of public health and welfare. EPA states that the share of GHG emissions from the U.S. power sector, including carbon dioxide, to global concentrations of GHGs in the atmosphere is minor and has been declining over time. EPA also contends that limiting the use of coal and other fossil fuels in U.S. power plants does not significantly impact global GHG concentrations when other countries continue to increase their use of fossil fuels. Instead, EPA proposes that the large and growing share of GHG emissions from international sources strengthens the conclusion that U.S. fossil fuel-fired electricity generation, including U.S. coal use for electricity generation, does not contribute significantly to globally elevated concentrations of GHGs in the atmosphere.

---

<sup>1</sup> Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units, Proposed Rule, (June 11, 2025) [https://www.epa.gov/system/files/documents/2025-06/12674-01-oar\\_carbon-pollution-standards-repeal-nrpm\\_proposal\\_20250611\\_clean\\_v3\\_0.pdf](https://www.epa.gov/system/files/documents/2025-06/12674-01-oar_carbon-pollution-standards-repeal-nrpm_proposal_20250611_clean_v3_0.pdf).

EPA maintains that nothing in the Clean Air Act suggests that Congress intended EPA to regulate emissions of any and all air pollutants regardless of the magnitude of emissions and regardless of those emissions' contribution to dangerous air pollution. Instead, the proposal says that EPA must exercise judgment in determining which air pollutants to regulate, and Congress directed that judgment must be applied by determining whether an air pollutant contributes significantly to dangerous air pollution.

## Proposal 2 – Repeal Specific Existing GHG Emissions Control Requirements for the Power Sector

As an alternative to the first proposal, EPA proposes repealing specific existing GHG emissions control requirements concerning coal, natural gas- and oil-fired plants that were issued by the prior Presidential administration. These include a requirement that coal-fired plants undergoing a large modification or planning to operate beyond 2039 capture 90% of their carbon dioxide emissions by 2032.

EPA concludes as part of this alternative proposal that technology to achieve capture of 90% of carbon dioxide emissions has not been adequately demonstrated, and that it is extremely unlikely that infrastructure necessary for carbon capture and storage can be deployed by the 2032 compliance date. The proposal states that technology to achieve capture of 90% of carbon dioxide emissions might not, if ever, be demonstrated and widely available until sometime in the future. EPA explains that it has identified very limited use of carbon dioxide capture and storage on fossil fuel-fired plants either in the U.S. or internationally, and the projects using carbon dioxide capture and storage on a cutting-edge basis have demonstrated significantly less than 90% capture.

This alternative also proposes that (1) natural gas co-firing is an inefficient use of that natural gas; (2) natural gas co-firing at coal fired plants is impermissible generation shifting under the 2022 Supreme Court decision in *West Virginia v. EPA*;<sup>2</sup> and (3) natural gas is an important and limited resource necessary to public welfare. While EPA's proposal states that efficiency or heat rate improvements can be used, EPA concludes that efficiency or heat rate improvements are unlikely to have a significant impact on emissions because power plants already have a significant incentive to use the most efficient technology available even without regulatory drivers. Therefore, EPA proposes to repeal existing GHG emissions control related to natural gas- and oil-fired steam generating units on the basis that these control requirements would result in few or no emission reductions.

## Latest Chapter in the Regulation of GHG Emissions from Power Plants

The June 11 proposals likely will be subject to criticism and challenges in the public comment process and in court. The proposals are the latest development in a policy tug-of-war spanning four presidential administrations over how the federal government may regulate GHG emissions from existing coal-fired power plants that do not undergo major modifications. The Clean Power Plan, announced by President Obama in 2015, would have set the emissions reduction requirements for these plants based on shifting to renewable energy sources, but that proposed rule never took effect. In 2022, the Supreme Court struck down the "generation-shifting" approach employed by the Clean Power Plan, holding that EPA lacked express congressional authorization to require such a sweeping re-ordering of the electric power industry.<sup>3</sup> In 2024, the Biden Administration promulgated a final rule establishing GHG performance standards for new and reconstructed fossil fuel-fired power plants and GHG emission guidelines for

---

<sup>2</sup> *West Virginia v. EPA*, 597 US 697 (2022).

<sup>3</sup> *West Virginia v. EPA*, 597 US 697 (2022).

existing coal-fired power plants (the “Biden Final Rule”).<sup>4</sup> The emissions standards put in place by the Biden Final Rule would be repealed by the June 11 proposals, if finalized as proposed.

The June 11 proposals will be available for public comment for 45 days after publication in the Federal Register. EPA plans to issue a final rule later this year.

\* \* \*

---

<sup>4</sup> New Source Performance Standards for Greenhouse Gas Emissions from New, Modified, and Reconstructed Fossil Fuel-Fired Electric Generating Units; Emission Guidelines for Greenhouse Gas Emissions from Existing Fossil Fuel-Fired Electric Generating Units; and Repeal of the Affordable Clean Energy Rule, 89 Fed. Reg. 39,798 (May 9, 2024).

If you have questions concerning the contents of this alert, or would like more information, please speak to your regular contact at Weil or to the authors:

**Authors**

Annemargaret Connolly (D.C.)	<a href="#">View Bio</a>	<a href="mailto:annemargaret.connolly@weil.com">annemargaret.connolly@weil.com</a>	+1 202 682 7037
Seth Kerschner (NY)	<a href="#">View Bio</a>	<a href="mailto:seth.kerschner@weil.com">seth.kerschner@weil.com</a>	+1 212 310 8450
Matthew Morton (D.C.)	<a href="#">View Bio</a>	<a href="mailto:matthew.morton@weil.com">matthew.morton@weil.com</a>	+1 202 682 7053
Graham McHenry (BO)	<a href="#">View Bio</a>	<a href="mailto:graham.mchenry@weil.com">graham.mchenry@weil.com</a>	+1 617 772 8821

© 2025 Weil, Gotshal & Manges LLP. All rights reserved. Quotation with attribution is permitted. This publication provides general information and should not be used or taken as legal advice for specific situations that depend on the evaluation of precise factual circumstances. The views expressed in these articles reflect those of the authors and not necessarily the views of Weil, Gotshal & Manges LLP. If you would like to add a colleague to our mailing list, please [click here](#). If you need to change or remove your name from our mailing list, send an email to [weil.alerts@weil.com](mailto:weil.alerts@weil.com).