



Energy Update

October 2026

Coalition Sues EPA Over Carbon Pollution Standards Repeal; Second Suit on Existing Gas Turbines Expected

On October 1, a coalition of 21 states and several cities, including Washington, D.C., New York City, and Chicago (Petitioners), filed suit in the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) against the U.S. Environmental Protection Agency (EPA) requesting judicial review of the intended repeal of the EPA's 2024 Carbon Pollution Standards ([Partial Repeal of the Carbon Pollution Standards for Fossil Fuel-Fired Electric Generating Units](#) (Final Rule)), which is set to go into effect on November 16. According to Section 307(b)(1) of the Clean Air Act, the federal statute regulating air pollution, a final action of nationwide scope taken by the EPA administrator must be filed with the D.C. Circuit within 60 days of notice provided in the Federal Register. The next filing deadline in the suit is November 2, when the Petitioners must submit a statement of issues to be raised. As part of this filing, they may request a stay or an injunction of the Final Rule.

In a [press release](#) issued on October 1, the office of New York Attorney General Letitia James stated that "[e]liminating limits on these emissions threatens communities across the country" and that the "EPA unlawfully abandoned [the] pollution limits without properly considering reasonable alternatives or the enormous health and climate costs of allowing more pollution into the atmosphere." The press release noted that the same coalition intends to sue the EPA for "failure to regulate greenhouse gas emissions from existing fossil fuel-fired stationary combustion turbines as required under section 111(d) of the Clean Air Act, 42 U.S.C. § 7411(d)" (Notice of Intent). The Notice of Intent states that "[s]ince 2015, EPA has been obligated to regulate greenhouse gas emissions from existing natural gas-fired power plants and

other stationary combustion turbines ... EPA's failure to effectively regulate these sources for the last decade has harmed, and will continue to harm, the States and Local Governments." According to the press release, the 2015 new source performance standards promulgated by the EPA have remained in place, although the U.S. Supreme Court stayed existing source regulations in *West Virginia v. EPA*, 597 U.S. 697 (2022).

The Final Rule repeals the carbon capture and sequestration/storage (CCS) standards for coal-fired steam generating units undergoing modification, the 2024 CCS standard for new baseload stationary combustion turbines, and the emission guidelines for existing fossil fuel-fired steam generating units. The Final Rule cites a \$160 billion compliance cost savings for the power sector by repealing these rules, using a 3% discount rate over the period of 2026 to 2047. Over the same period and applying the same discount rate, the Final Rule estimates \$280 billion in real resource cost savings, which it states captures "the full avoided expenditure on physical and labor inputs used in the power sector for compliance." It further notes that the cost savings do not account for the value that baseload power provides for electric grid reliability. [According to the Oil & Gas Journal](#), the EPA's repeal of the 2024 Carbon Pollution Standards is welcomed by industry, which views the standards as a regulatory barrier to new gas-fired generation as the demand for electricity rises due to data center expansion.

It is noteworthy that the International Court of Justice (ICJ) stated in its unanimous [Advisory Opinion on Obligations of States in respect of Climate Change](#), issued on July 23, 2025, that "a State may be responsible [under international law]

where, for example, it has failed to exercise due diligence by *not taking the necessary regulatory and legislative measures to limit the quantity of emissions caused by private actors under its jurisdiction*" and that an "internationally wrongful act [triggering the international responsibility of a State] may range from breaches of treaty obligations ... to breaches of obligations under customary international law, *such as the failure of a State to regulate emissions of GHGs under its duty to exercise due diligence to prevent significant harm....*" While ICJ advisory opinions are formally non-binding, they reflect the authoritative views of the principal judicial organ of the United Nations.

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