Promises Made But Challenges Ahead:
Clean Air Act Regulatory Reforms in the Second Trump Administration[*]

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I. Introduction

Since the earliest days of the second Trump Administration, the priorities of the U.S. Environmental Protection Agency have been clear. Testifying before the Senate Environment and Public Works Committee in January 2025, the President's then-designee for EPA Administrator, former New York congressman Lee Zeldin, emphasized that he believes in balancing environmental protection with economic growth, stating: "We must ensure we are protecting the environment while also protecting our economy" and pleading to focus on electric reliability and energy affordability.[1] Under his leadership, he promised that EPA would "abid[e] by rule of law"; work with state leaders to "address the unique environmental issues" facing each state; "honor cooperative federalism"; and "ensure that all actions are durable, well into the future."[2]

In February 2025, Administrator Zeldin echoed and expanded these promises in the five pillars supporting his "Powering the Great American Comeback Initiative":

- Pillar 1: Clean air, land, and water for every American by fulfilling the agency's mission of protecting human health and the environment while being a good steward of tax dollars.
- Pillar 2: Restore American energy dominance by ending reliance on foreign energy sources while lowering costs to consumers and businesses.[3]
- Pillar 3: Permitting reform, cooperative federalism, and cross-agency partnership to eliminate years-long, uncertain, and costly processes that deter business investments.

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[1] *Hearing on the Nomination of the Honorable Lee M. Zeldin to be Administrator of the Environmental Protection Agency Before the S. Comm. on Env't & Public Works*, 119th Cong. 20 (2025) (statement of the Hon. Lee M. Zeldin, Nominee, EPA Administrator).

[2] *Id.* at 22, 76.

[3] In his responses to Questions for the Record during his confirmation process, Mr. Zeldin defined "energy dominance" to "describe[] a circumstance in which the United States is not dependent on energy from other countries, including adversaries like Iran, Russia, and Venezuela. Energy dominance is a matter of environmental stewardship as well as national security. Imported energy may not benefit from the same degree of environmental rigor that we practice in this country, it affects the price Americans pay for energy, and it increases our geopolitical vulnerability." *Hearing on the Nomination of the Honorable Lee M. Zeldin to be Administrator of the Environmental Protection Agency Before the S. Comm. on Env't & Public Works*, 119th Cong. 13-14 (2025) (Questions for the Record for the Hon. Lee M. Zeldin, Nominee, EPA Administrator).

- Pillar 4: Make the United States the Artificial Intelligence capital of the world (also an American energy goal).
- Pillar 5: Protecting and bringing back the American auto by streamlining and developing smart regulations.[4]

To implement these goals, and consistent with key Executive Orders issued by President Donald Trump,[5] EPA has announced a substantial list of deregulatory actions and reforms under all the major environmental statutes, including numerous high-profile Clean Air Act programs. This paper reviews the two deregulatory proposals EPA has publicly proposed to date, considering how well these forthcoming actions meet the agency's goals and discussing some of the head winds EPA may face.[6]

II. Significant Clean Air Act Deregulatory Promises Made: "EPA Launches Biggest Deregulatory Action in U.S. History"

Within weeks of his confirmation, Administrator Zeldin announced the agency intends to take 31 "historic" deregulatory actions, which the agency called the "greatest day of deregulation our nation has seen."[7] Not surprising—given the broad scope of many Clean Air Act programs—action to reconsider air and climate regulations issued by the Biden Administration make up half of EPA's list:

- Section 111 Greenhouse Gas (GHG) standards for the power sector: Biden-era Carbon Pollution Standards (CPS) and Obama-era New Source Performance Standards (NSPS)
- Section 111 GHG standards for the oil and gas industry: NSPS Subpart OOOO b/c
- Mercury and Air Toxics Standards (MATS) for the power sector
- Mandatory Greenhouse Gas Reporting Program
- Risk Management Program amendments
- Light-duty, medium-duty, and heavy-duty vehicle regulations
- 2009 GHG Endangerment Finding: declaring GHG emissions contribute to dangerous air pollution and actions relying on it
- The most recent primary annual National Ambient Air Quality Standard (NAAQS) for fine particulate matter (PM 2.5)
- National Emission Standards for Hazardous Air Pollutants (NESHAP) for eight different source categories across the economy (iron and steel, rubber tires, synthetic chemicals, commercial sterilizers, lime, coke, copper, and taconite ore)
- Regional Haze Program
- "Social Cost of Carbon"

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[4] Press Release, Env't Prot. Agency, EPA Administrator Lee Zeldin Announces EPA's "Powering the Great American Comeback" Initiative (Feb. 4, 2024), https://www.epa.gov/newsreleases/epa-administrator-lee-zeldin-announces-epas-powering-great-american-comeback.

[5] Unleashing American Energy, Exec. Order 14154, 90 Fed. Reg. 8353 (Jan. 29, 2025); Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative, Exec. Order 14219, 90 Fed. Reg. 10583 (Feb. 19, 2025); Reinvigorating America's Beautiful Clean Coal Industry, Exec. Order 14261, 90 Fed. Reg. 15517 (Apr. 8, 2025).

[6] In any new administration, the first several months or even year can be quite fluid. The Trump Administration is no different, and this paper reflects regulatory announcements and actions only as of July 1, 2025.

[7] Press Release, Env't Prot. Agency, EPA Launches Biggest Deregulatory Action in U.S. History (Mar. 12, 2025), https://www.epa.gov/newsreleases/epa-launches-biggest-deregulatory-action-us-history.

- The Good Neighbor Rule, the cross-state federal implementation plan for the 2015 ozone NAAQS
- Addressing the backlog of state and tribal implementation plans (SIPs and TIPs)
- Exceptional events rules and guidance
- Reconstituting the Science Advisory Board and Clean Air Scientific Advisory Committee

EPA considers that nearly all these actions will further the goals of protecting the environment and ensuring clean air for every American.[8] Beyond that, the rules aim to support the breadth of the Administrator's goals.[9]

III. Promises Taking Shape: Clean Air Act Deregulatory Proposals

Moving from the promise of action to the issuance of deregulatory proposals is slow going. As of July 1, 2025, EPA has only issued proposals to repeal the power sector GHG rules and MATS.[10] EPA has framed both actions as consistent with its commitment to protecting the environment and the economy; energy dominance, electric reliability, and energy affordability; abiding by the rule of law; and the pillars of the "Great American Comeback." Administrator Lee Zeldin has said that, together, the two rules would save over $1 billion per year. Further, "both proposed rules, if finalized, would deliver savings to American families on their electricity bills, and it will ensure they have the electricity that they need."[11]

However, these proposals will face significant legal challenges—particularly EPA's primary GHG proposal. The full range of arguments that may be used will not be known until after the comment periods on these proposals close in early August 2025; therefore, this paper relies on critiques that stakeholders have provided to the media.

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[8] ENV'T PROT. AGENCY, GREENHOUSE GAS REPORTING RULE: GENERAL: POWERING THE GREAT AMERICAN COMEBACK FACT SHEET, https://www.epa.gov/system/files/documents/2025-03/fact-sheet-reconsideration-of-the-greenhouse-gas-reporting-rule-general.pdf; *see e.g.*, ENV'T PROT. AGENCY, NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAP): POWERING THE GREAT AMERICAN COMEBACK FACT SHEET, https://www.epa.gov/system/files/documents/2025-03/neshap_powering-the-great-american-comeback_fact-sheet_2.pdf.

[9] For example, revising the PM 2.5 NAAQS standards will ease burdensome permitting requirements that prevent economic growth (Pillar 3), while action reconsidering the Good Neighbor Rule is expected to contribute to energy dominance (Pillar 2); assist with permitting reform and cooperative federalism (Pillar 3); and support American leadership in AI (Pillar 4). And, of course, EPA deregulatory action on vehicle emission standards would support the auto industry (Pillar 5).

[10] Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units, 90 Fed. Reg. 25752 (proposed June 17, 2025); National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units, 90 Fed. Reg. 25535 (proposed June 17, 2025).

[11] Env't Prot. Agency, *EPA Proposes Repeal of Biden-Harris EPA Regulations for Power Plants*, YOUTUBE (June 23, 2025), https://www.youtube.com/watch?v=BO2vpKZJGqQ [hereinafter *EPA Proposes Repeal of Biden-Harris Regulations*].

A. Proposed "Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units"

On June 11, 2025, EPA issued a proposal to fully repeal current GHG standards under CAA Section 111, all of which were issued by prior administrations (the 2015 Obama EPA NSPS[12] and 2024 Biden EPA Carbon Pollution Standards).[13] The primary proposal is based on a core legal shift: that GHG emissions from fossil fuel power plants do not significantly contribute to air pollution "which may reasonably be anticipated to endanger public health or welfare" or what EPA calls "dangerous air pollution" for short.[14] EPA also developed an alternative proposal that would repeal several stringent requirements from the Obama- and Biden-era rules.

Finalizing either proposal would further Administrator Zeldin's commitment to the rule of law, environmental protection, and economic prosperity, all while promoting energy dominance, reliability, and affordability.

1. Primary Proposal to Repeal All GHG NSPS and Emission Guidelines

In its "primary" proposal, EPA posits that Clean Air Act Section 111(b)(1) authorizes the agency to regulate a pollutant only once EPA has made a pollutant-specific finding that emissions from the source category cause air pollution dangerous or significantly contribute to it.[15] EPA's interpretation reverses the agency's position during the Obama and Biden Administrations that, once EPA has found that emissions from any one pollutant contribute significantly to dangerous air pollution, EPA can regulate any other pollutants from that source if reasonable to do so.[16] EPA certainly sees this as necessary to "abide by the rule of law." Indeed, in announcing the proposal, Administrator Zeldin stated that EPA "will continue to unapologetically course correct and implement sound policy."[17]

Section 111 delegates the "significant contribution" determination to the Administrator and makes it a matter of "judgment."[18] EPA now proposes to define the various factors the agency can consider in wielding that discretion: whether emissions from a source category contribute significantly to dangerous air pollution, including the availability of achievable, cost-effective controls; whether imposing controls would be effective on the targeted air pollution (invoking

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[12] Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units, 80 Fed. Reg. 64510 (Oct. 23, 2015).

[13] 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. 39798 (May 9, 2024).

[14] *See* Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units, 90 Fed. Reg. at 25760.

[15] Alternatively, EPA proposes that even if this approach is not compelled by Section 111, the statute allows EPA to make that finding a pre-requisite to issuing regulations for a particular pollutant.

[16] Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units, 90 Fed. Reg. at 25760.

[17] *EPA Proposes Repeal of Biden-Harris Regulations*, *supra* n.11.

[18] 42 U.S.C. § 7411(b)(1)(A) ("The Administrator shall, within 90 days after December 31, 1970, publish (and from time to time thereafter shall revise) a list of categories of stationary sources. He shall include a category of sources in such list if in his judgment it causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare.").

the legal concept of "proximate cause"); the public health and welfare impacts attributed to the air pollution; and the administration's policy priorities. EPA acknowledges that this approach is a reversal of the approach taken by prior administrations, which made the significant contribution finding based solely on the magnitude of the emissions from the source category as compared to the global emissions inventory. But it asserts that the requirement that the Administrator exercise "judgment" in making a significant contribution determination and the absence of an obligation to evaluate the significance of the risk separately from the mitigation of the risk allows such considerations when making a significant contribution determination.[19]

a. Rationale for Primary Proposal

EPA proposes to find that any regulation of GHG emissions from fossil fuel-fired EGUs would not have a significant effect on GHG air pollution and the public health or welfare impacts attributed to GHGs, and that the contribution of this source category is therefore not significant for several reasons:

- First, GHG emissions from those sources are a small and decreasing part of global emissions. Specifically, EPA notes that the U.S. electric power sector comprised 5.5% of total global GHG emissions in 2005, but by 2022, these emissions fell to only 3% of global emissions.[20]

- Second, cost-effective control measures are not reasonably available. Here, EPA argues that it must look at the "availability of achievable, cost-effective emission reductions" when determining whether a source "significantly contributes."[21] "If no such reductions are available, the influence or effect of regulating the source category for that pollutant is null, and its contribution to air pollution is not significant." This, EPA asserts, is the same approach it has long taken (and that courts have upheld) in interpreting the same "contribute significantly" language in the "good neighbor" provision of Section 110.[22] Applying this construction to the situation at hand, EPA cites "serious flaws" in possible power plant emissions controls[23] to argue "not only that emissions reductions are not readily achievable," but also that the contribution to dangerous air pollution that the EPA previously relied upon to regulate GHG emissions is not significant within" Section 111 "when read in context with an eye toward the provision's structure."[24]

- Third, EPA proposes that the significant contribution analysis is informed by "considerations of national policy regarding the public welfare and ability of the CAA section 111 regulatory mechanism to achieve meaningful reductions in air pollution that are cost-reasonable and achievable." Applying this approach, EPA explains that the analysis is therefore "informed by this Administration's national policy that energy

[19] Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units, 90 Fed. Reg. at 25765.
[20] *Id*. at 25767-68.
[21] *Id.* at 25765-66.
[22] *Id*. at 25766; *see* 42 U.S.C. § 7410(a)(2)(D)(i)(I).
[23] EPA uses the same flaws to support its alternative proposal, so they are discussed in more detail later in this paper.
[24] Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units, 90 Fed. Reg. at 25766.

production is essential to the public welfare" and "energy dominance and independence secured by" fossil fuel power generation promotes public health and welfare.[25]

- Fourth, Congress issued Section 111 against the backdrop of the well-established legal principles of causation and proximate cause, both of which we must presume have been incorporated into the Clean Air Act. Therefore, EPA proposes to interpret Section 111(b)(1)(A) as incorporating these principles in considering whether air pollutant emissions "significantly contribute."[26] Applying these principles shows that the agency's 2015 significant contribution finding depended on a global analysis and an attenuated chain of causation that is inconsistent with EPA's Section 111 rules and that, under EPA's proposed interpretation, "emissions of an air pollutant by a source category cannot be said to contribute significantly to a third or fourth order adverse consequence involving multiple independent domestic and global actors unless the contribution is sufficiently significant that regulation would have a discernable impact on the potential danger."[27]

EPA asserts that these factors fit well into the meaning of the terms "significant" and "welfare," but does not elaborate.[28]

EPA says the Carbon Pollution Standards do not ensure electricity reliability because, by suggesting that new combustion turbines could be sited near potential storage sites, it ignores the requirement that electricity generating sources must be sited in locations necessary to address electricity reliability. Furthermore, the costs of the CPS do not ensure affordable electricity.[29]

b. Criticisms of the Primary Proposal

Although this proposal would support several of Administrator Zeldin's promises and pillars, several criticisms of EPA's proposal have been made public so far:[30]

- Basing the Administrator's judgment of significant contribution determination on current policy preferences violates *Loper Bright Resources v. Raimondo*.[31]

Although *Loper Bright* certainly leaves room for courts to defer to an agency's reasoned determination when the statute uses language denoting discretion,[32] a court may question whether the best reading of the statute allows EPA to put substantial weight on the policy

[25] *Id.* at 25755, 25766.
[26] *Id*. at 25767.
[27] *Id*.
[28] *Id.* at 25766, n.110.
[29] *Id.* at 25753, 25777.
[30] *See* Abigail Mihaly, *EPA Floats 'Poorly Reasoned' Claims On GHG 'Significance,' Observers Say*, INSIDEEPA (June 12, 2025), https://insideepa.com/daily-news/epa-floats-poorly-reasoned-claims-ghg-significance-observers-say.
[31] *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 400-01 (2024) (courts must exercise their independent judgment to determine the best reading of the statute).
[32] *Id.* at 395.

preferences of an administration. This may be especially true when the result is deregulation of what many may see as an objectively large source of emissions.[33]

- *Massachusetts v. EPA* prohibits EPA's policy considerations.[34]

In deciding whether the Clean Air Act authorizes EPA to regulate greenhouse gas emissions, the Supreme Court did not reach the issue of "whether policy concerns can inform EPA's actions in the event that it makes" an endangerment finding under a different part of the Clean Air Act on remand.[35] However, it did explain that any policy preferences EPA may consider cannot be "divorced from the statutory text" because Congress's choice of the word "judgment" "is not a roving license to ignore the statutory text."[36]

- EPA cannot lawfully consider the cost of emission controls when determining whether emissions from a source category significantly contribute.

This argument would distinguish between the statute's explicit authorization of "cost" in determining the "best system of emission reduction" under Section 111(a)(1) and Section 111(b)'s silence in directing EPA to determine whether a source category should be regulated because it "causes, or contributes significantly to" dangerous air pollution.[37]

- A new administration can easily reverse the primary proposal.

EPA's primary approach may run headlong into Administrator Zeldin's commitment to enacting durable regulations. EPA believes that regulatory change is needed to restore economic progress, ensure electric reliability, and promote energy affordability. But some might argue that putting weight on policy considerations will not prevent a future EPA administrator from exercising his or her judgment differently based on the next administration's policy priorities.[38] Critics may argue that such a reversal is likely because this approach implies that Section 111 is dead letter for GHG emissions: power plants are responsible for 25% of the GHG emissions generated by the United States,[39] so, if the power sector's GHG emissions are not "significant," no stationary source category is likely to be.[40]

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[33] *See e.g.*, Jennifer Hijazi, *Trump Power Plant Proposal Faces High Bar After Loper Bright*, BLOOMBERG LAW (June 12, 2025), https://news.bloomberglaw.com/environment-and-energy/trump-power-plant-proposal-faces-high-bar-after-loper-bright?source=newsletter&item=headline&region=digest&login=blaw (according to former EPA Assistant Administrator Joe Goffman, "[t]he interpretation of the Clean Air Act that fossil fuel-fired power plants do not contribute significantly to pollution isn't favorable read of the statute.").

[34] *Massachusetts v. EPA*, 549 U.S. 497 (2007) (Clean Air Act definition of "air pollutant" includes greenhouse gases).

[35] *Id.* at 534-35.

[36] *Id*. at 532-33.

[37] *Compare* 42 U.S.C. § 7411(a)(1) *with id*. § 7411(b)(1); *see also* Mihaly, *supra* n.30 (quoting Bracewell partner Jeff Holmstead).

[38] Mihaly, *supra* n.30 (quoting Bracewell partner Jeff Holmstead).

[39] Lisa Friedman, *E.P.A. Axes Biden's Climate and Pollution Limits on Power Plants,* NEW YORK TIMES (June 11, 2025), https://www.nytimes.com/2025/06/11/climate/epa-power-plants-mercury-carbon-trump.html.

[40] PETER A. HOWARD & JASON A. SCHWARTZ, THE SCALE OF SIGNIFICANCE: POWER PLANTS, 3 (2025) https://policyintegrity.org/files/publications/Power_Sector_GHG_Contribution_Issue_Brief_vF.pdf ("if the U.S. power sector were a country, it would rank as the sixth biggest emitter in the world in the year 2022").

2. Alternative proposal to repeal select components of prior rules

In the alternative,[41] EPA proposes to repeal the most stringent regulatory components of current regulations. If finalized, the alternative would repeal regulations issued by the Biden and Obama administrations, including requirements that (A) existing coal-fired power plants that plan to operate beyond 2038 to install and operate carbon capture and sequestration (CCS) that achieves 90% capture of CO_2 by January 1, 2032; (B) existing coal-fired power plants that plan to retire by the end of 2038 begin co-firing 40% natural gas by January 1, 2030; (C) existing natural gas- and oil-fired steam generators use routine maintenance and operation to meet emission limits; and (D) that new gas-fired stationary combustion turbines also achieve 90% capture through CCS by that same date.

EPA proposes to repeal these and other requirements after reviewing and rejecting the agency's prior interpretation and application of key elements in CAA Section 111 for determining a "standard of performance": the "degree of emission limitation" that is "achievable" by sources in the source category by application of the "best system of emission reduction" (BSER) that EPA determines has been "adequately demonstrated" considering costs, non-air quality impacts, and energy requirements.[42]

In support of its approach to the requirement that BSER be "adequately demonstrated," EPA cites substantial D.C. Circuit case law:

- Systems are not "adequately demonstrated" if they are "purely theoretical or experimental"[43] or require a "crystal ball inquiry";[44]
- In determining the "best" adequately demonstrated system, EPA must consider "the amount of air pollution" reduced;[45]
- EPA should follow a "technology-based approach" that focuses on "measures that improve the pollution performance of individual sources," such as "add-on controls;"[46]
- EPA has a "great degree of discretion" in weighing the factors in Section 111 regarding what is "best";[47]
- In considering costs, EPA has discretion in determining the level of costs and balancing the costs with other BSER factors and EPA may not promulgate a standard if the costs of it would be "excessive" or "unreasonable."[48]

[41] The alternative proposal would leave the 2015 Obama-era NSPS in place (including the requirement that new steam generating units have partial CCS), and it would keep the 2024 NSPS for new and reconstructed natural gas-fired turbines in place (without requiring CCS or hydrogen co-firing).
[42] 42 U.S.C. § 7411(b).
[43] Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units, 90 Fed. Reg. 25757 (citing *Essex Chem. Corp.* v. *Ruckelshaus,* 486 F.2d 427, 433–34 (D.C. Cir. 1973)).
[44] *Id*. at 25758 (citing *Portland Cement Ass'n v. Ruckelshaus*, 486 F.2d 375, 391-92 (D.C. Cir. 1973)).
[45] *Id*. at 25757-58 (citing *Sierra Club v. Costle,* 657 F.2d 298, 326 (D.C. Cir. 1981)).
[46] *Id.* at 25758 (citing *West Virginia v. EPA*, 597 U.S. 697, 727 (2022)).
[47] *Id*. (citing *Lignite Energy Council v. EPA*, 198 F.3d 930, 933 (D.C. Cir. 1999)).
[48] *Id*. (*citing Sierra Club v. Costle*, 657 F.2d 298, 343 (D.C. Cir. 1981)).

As these citations show, industry supporters have justifiably expressed a high degree of confidence in the alternative proposal,[49] and (to date) public criticism of the proposed rule has focused on the full repeal.

a. Existing Long-Term Coal-Fired Steam Generators[50]

EPA proposes to repeal CCS-based requirements for long-term existing coal-fired generating units (i.e., those that intend to operate after January 1, 2039), arguing that CCS with 90% capture is not the best system of emission reduction because it is not "adequately demonstrated" and poses unrealistic costs. Further, because the transportation and storage infrastructure necessary to support 90% CCS probably cannot be deployed by January 1, 2032, EPA proposes to find that the emission limitation for these sources is not achievable and therefore proposes to repeal those emission guidelines.

First, EPA reasons that if it indeed has discretion under Section 111, its legislative history, and pertinent case law to adopt a forward-looking prediction on whether a technology has been "adequately demonstrated" (something the current EPA does not concede), this discretion is bounded by the statute's 8-year timeline for EPA to "review, and if appropriate, revise" new source standards.[51] If a technology cannot be developed within the 8-year review period, EPA cannot consider it to be an "adequately demonstrated" technology for purposes of selecting BSER.[52]

Reviewing the Biden EPA's rulemaking record, EPA concludes that the record did not demonstrate that 90% carbon capture technology would be demonstrated within the next 8 years. The CPS relied heavily on a CCS project at Boundary Dam, but EPA notes that the project never achieved more than 63% capture over the course of a calendar year;[53] other projects the Biden EPA considered were generally not commercial scale or captured far less than 90% CO_2;[54] and the prior administration did not adequately account for seasonal variations in CO_2 capture performance, periodic decreases in performance due to technical issues that occur in between maintenance cycles (such as solvent degradation and fouling of components), or periods of startup.[55]

EPA also reviews the costs associated with CCS in the CPS and concluded that the rule's adoption of CCS rests on unrealistic assumptions not supported by real-world data (i.e., that plants would run at a high-capacity factor of 80% throughout the year and achieve 90% capture at all times), with lower actual performance leading to a higher cost per ton of CO_2 removed.

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[49] *See e.g.*, Abigail Mihaly, *Observers See Better Odds For EPA's 'Fallback' Utility GHG Repeal Claims*, INSIDEEPA (June 17, 2025), https://insideepa.com/daily-news/observers-see-better-odds-epa-s-fallback-utility-ghg-repeal-claims.

[50] For the same reasons discussed in this part, EPA also proposes to repeal CCS-based standards for existing coal-fired units that undertake a large modification. Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units, 90 Fed. Reg. at 25775.

[51] *See* 42 U.S.C. § 7411(b)(1)(B).

[52] Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units, 90 Fed. Reg. at 25769.

[53] *Id.*

[54] *Id.* at 25770.

[55] *Id.* at 25771.

EPA criticizes the Biden rule for determining that costs of $53.70/MWh are reasonable when that number far exceeds the costs EPA previously found to be reasonable ($18.50/MWh). Lastly, the agency explains that the prior administration's assumptions about the availability and value of federal tax credits were unreasonable.[56]

Finally, EPA rejects the conclusions in the CPS that the degree of emission limitation for existing long-term coal-fired generators is achievable, as it would require the construction of CCS capture, pipeline, and sequestration infrastructure that would be necessary for steam generators to comply. Again, EPA concludes that the prior administration's determinations were not realistic. Specifically, the CPS assumed typical project timelines are shorter than what is typical and failed to account for common delays. The CPS was also overly optimistic regarding the ability to build a large network of pipelines to existing coal plants, given permitting delays and the hurdles to using eminent domain authority and negotiating rights-of-way. Similarly, EPA finds that storage infrastructure for CO_2 sequestration is limited, potential additional storage sites may not be suitable, and developing storage sites may also face permitting and other delays. For these reasons, EPA concludes that it is unlikely that the necessary infrastructure for CCS can be deployed by January 1, 2032.[57]

b. Existing Medium-Term Steam Generators

EPA also proposes to reject the requirement for steam generators in the medium-term subcategory (i.e., those operating on or after January 1, 2032, but not after December 31, 2038) to use 40% natural gas co-firing. EPA gives three reasons for this.

First, EPA explains that setting a standard of performance under Section 111 requires the agency to consider "energy requirements,"[58] which EPA now interprets to include the impacts, if any, of the air pollution controls on the source's own energy needs as well as those of the whole energy system on a sector-, regional-, or nation-basis.[59] Applying this provision, EPA concludes that 40% natural gas co-firing is not an efficient use of energy: the higher hydrogen content of natural gas relative to coal reduces the efficiency of the boiler, natural gas can be much more efficiently used in modern combined cycle gas plants, and EPA seeks public comment on whether diverting natural gas to coal-fired power plants might impact the energy system as a whole as demand for natural gas grows.[60]

Second, EPA also proposes to find that 40% co-firing is unlawful under *West Virginia v. EPA*.[61] Although the Biden EPA came to the opposite conclusion in the CPS, EPA now proposes to find that "requiring a utility to use a completely different fuel type that in many cases requires significant new infrastructure to be added to supply the facility, and can require

[56] *Id.* at 25772-73 (proposing that a cost calculation premised on shifting the costs of CCS to taxpayers is an "incorrect accounting for the costs of control").
[57] *Id.* at 25773.
[58] 42 U.S.C. § 7411(a)(1).
[59] Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units, 90 Fed. Reg. at 25773-77.
[60] *Id*. at 25774.
[61] *West Virginia v. EPA*, 597 U.S. 697, 724-35 (2022) (holding that Section 111 does not endow EPA with authority to regulate power plant CO_2 emissions by restructuring the energy sector to shift generation mix at grid level from coal- and natural gas-fired plants to renewables, *i.e.*, "generation shifting").

modification/addition of burners to the boiler, is impermissible generation shifting."[62] Pointing to arguments made by the parties litigating the CPS, EPA contends that it may be acceptable to switch between the same fuel type—for example, from high- to lower-sulfur coal—but switching between different types of fuel—here, from coal to gas—conflicts with *West Virginia* because it is an attempt to dictate the market share of coal versus natural gas.[63]

Third, EPA proposes to determine that emission limitations based on 40% natural gas co-firing are not achievable because co-firing is practically constrained by the lack of natural gas pipeline infrastructure (which EPA proposes to find cannot be built in time to meet the Biden EPA's 2030 deadline).[64]

c. Existing Natural Gas- and Oil-Fired Boilers

Currently, the CPS regulates GHGs from intermediate load and base load natural gas- and oil-fired steam generating units by mandating routine operation and maintenance to meet emission limitations.[65] According to EPA, emissions from gas- and oil-fired units contribute little to emissions. Therefore, even though the agency is not proposing to find the BSERs or presumptive standards in the CPS unreasonable, EPA believes states should not be burdened with preparing state implementation plans for these steam units that have minimal impact—as developing them would be an inefficient use of resources.[66]

Some critics of the rule may object that this rationale has no basis in the statute, especially if EPA ultimately does not reverse the significant contribution finding.

d. New Natural Gas-Fired Combustion Turbines

For many of the same reasons that EPA proposes to reject the prior administration's conclusion that CCS with 90% capture is BSER for coal-fired power plants, EPA also proposes to reject 90% CCS as BSER for new base load stationary combustion turbines (i.e., those operating more than 40% of the time). Specifically, EPA proposes to find that CCS with 90% capture is not the phase 2 BSER for base load turbines because it has not been adequately demonstrated, the costs are not reasonable, and it is unlikely that the infrastructure needed for CCS can be constructed by January 1, 2032.[67]

B. Proposed "National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units"

The second Clean Air Act deregulatory proposal EPA has issued to date is a repeal of parts of the Clean Air Act Section 112 NESHAP for coal- and oil-fired steam generating plants, more

[62] Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units, 90 Fed. Reg. at 25774.
[63] *Id.*
[64] *Id.* at 25774-75.
[65] ENV'T PROT. AGENCY, BSER AT-A-GLANCE, https://www.epa.gov/system/files/documents/2024-04/cps-table-of-all-bser-final-rule-4-24-2024.pdf.
[66] Repeal of Greenhouse Gas Emissions Standards for Fossil Fuel-Fired Electric Generating Units, 90 Fed. Reg. at 25775.
[67] *Id*. at 25775-77.

commonly known as the Mercury and Air Toxics Standards or "MATS." If finalized, the rule would revoke stricter standards for filterable particulate matter (fPM); a requirement to install and operate continuous emissions monitoring systems (CEMs) to demonstrate compliance with the fPM standard; and stricter mercury limits for plants burning lignite coal. These requirements were set by the Biden EPA in a 2024 rule (2024 MATS) that re-did a 2020 Residual Risk and Technology Review conducted during the first Trump administration (2020 RTR).[68]

The 2020 RTR had two main parts. First, EPA decided it was not "appropriate and necessary" to regulate coal- and oil-fired power plants under Clean Air Act Section 112(n)(1).[69] Second, EPA completed a two-prong review of the MATS required by Section 112. Under Section 112(f)(2), EPA conducted the "residual risk review," looking to see whether stricter regulations are needed to protect public health with "an ample margin of safety" or to prevent an adverse environmental effect (considering costs, energy, safety, and other factors). And under Section 112(d)(6), EPA conducted a technology review in which it reviewed and considered whether to "revise as necessary" the MATS based on developments in practices, processes, and control technologies since the agency issued the rule.[70] EPA determined that MATS provided an ample margin of safety to protect public health and prevent an adverse environmental effect. And EPA found that there were no significant new developments. Therefore, EPA did not make any changes to MATS because of the residual risk and technology review.[71]

In 2023, EPA reversed the "appropriate and necessary finding."[72] In 2024, it confirmed that the 2020 residual risk review accurately showed low residual risk from coal- and oil-fired steam generators. But upon reviewing the same technologies it had considered in 2020, EPA found that there *were* developments that warranted revising certain standards. Therefore, the agency finalized the three changes now at issue in the Trump administration's new proposal, including tightening the fPM standards from 0.030 lb/MMBtu to 0.010 lb/MMBtu and mercury standards for lignite-fired units from 4.0 lb/TBtu to 1.2 lb/TBtu.[73]

1. Key Aspects of the MATS Deregulatory Proposal

Consistent with Administrator Zeldin's pledge to protect the environment without endangering the economy, EPA explains that it has reevaluated the 2024 MATS and proposes to find that the changes made by it "were not necessary as they impose large compliance costs or raise potential

[68] National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units, 90 Fed. Reg. 25535, 25537(proposed June 17, 2025).
[69] 42 U.S.C. § 7412(n)(1)(A).
[70] 42 U.S.C. §§ 7412(f)(2), (d)(6).
[71] National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units, 90 Fed. Reg. at 25538-39.
[72] National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units—Revocation of the 2020 Reconsideration and Affirmation of the Appropriate and Necessary Supplemental Finding, 88 Fed. Reg. 13956 (Mar. 6, 2023).
[73] National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units Review of the Residual Risk and Technology Review, 89 Fed. Reg. 38508, 38510 (May 7, 2024).

feasibility concerns."[74] The agency's key rationales include total cost and cost-effectiveness (fPM and PM CEMS) and achievability (lignite mercury standard).[75]

a. Filterable Particulate Matter

Upon further review of the 2024 MTS, EPA now proposes to reverse the stricter fPM limits (which serve as a surrogate for non-mercury hazardous metals and total hazardous metals) due to the high cost of the standards, both in terms of total cost and cost-effectiveness. The 2024 standards were generally based on cost-effectiveness ratios "significantly higher" than those EPA has rejected in past Section 112 technology reviews and, specifically, an order of magnitude higher than the cost-effectiveness ratios EPA has accepted for fPM emissions in other industries.[76] For example, in a Section 112 rule for the petroleum sector, EPA declined to revise the fPM emission limit for certain existing units after finding that it would cost $10 million per ton of non-mercury HAP. Yet, in the 2024 MATS, EPA adopted stricter fPM limits that would reduce those pollutants at a cost of $10.5 million per ton, based on differences it recognized between the power sector and other industries. EPA now proposes to reject that determination because, despite the technology developments recognized in the 2024 MATS, "the costs for the power sector to achieve the revised standard are too high, such that the revised standard is not necessary under CAA section 112(d)(6)."[77]

b. PM CEMS

In the 2024 MATS, EPA's decision to require PM CEMS was based on a comparison of the cost of CEMS with that of traditional stack testing. According to the agency, stack tests to meet the tighter fPM limit would be longer in duration and more complex. This would increase the costs of testing and make them comparable to PM CEMS. In fact, EPA found quarterly stack testing to be only about $12,000 less than the equivalent uniform annual cost for PM CEMS. But because of unquantifiable benefits—namely, increased transparency and public access to data—EPA determined that the benefits of PM CEMS outweighed the cost disparity. Now, EPA's proposed repeal of the stricter fPM emission limits erodes this rationale.

EPA also finds authority for repealing the CEMS requirement under Clean Air Act Section 114. By repealing this requirement, EPA estimates a cost savings of $2.8 million per year. EPA no longer believes that the benefits of increased transparency and availability of data outweigh these costs, especially when this compliance data can be accessed in EPA's WebFIRE system regardless of how it is collected.[78] This provides greater flexibility to owners and operators and reduces the compliance burden, while still assuring compliance with the fPM emission standard.

[74] National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units, 90 Fed. Reg. at 25,537.
[75] *Id.* at 25537-38.
[76] *Id.* at 25541.
[77] *Id.* at 25541-42.
[78] *Id.* at 25542.

c. Lignite Mercury Standard

The 2024 MATS lowered the mercury standard for lignite-fired units to a level similar to the requirements for all other types of coal. EPA did so because it determined that commercially available control technologies and improved methods of operation would allow lignite-fired generators to meet a more stringent emission standard than was possible when EPA issued the MATS in 2012.[79] EPA now proposes to repeal the revised mercury emission limit for lignite-fired steam generators.

EPA gives several reasons for this, including the lack of sufficient data to demonstrate that lignite units can consistently meet the lower limit across all boiler types and lignite fuel compositions. EPA explains that the agency concluded in the 2024 RTR that lignite-fired units—across the board—would need to reduce their emissions by at least 95% to meet the tighter standard. However, EPA did not demonstrate in the 2024 MATS that all lignite-fired units could meet a high level of mercury removal. Although data in the 2024 MATS record showed that emissions from 11 of the 12 lignite facilities were well above the tightened standard, EPA relied on testing data from only two units, one of which uses better performing combustor technology (a circulating fluidized bed) that produces lower emissions not representative of lignite-fired facilities that do not use this technology. Similarly, EPA faults the 2024 MATS for failing to "investigate the complex composition of lignite coals," including the variability of the mercury content in the inlet fuel source—which can vary on a monthly basis—and the challenges posed by the combination of lower halogen and higher sulfur content in lignite.[80]

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EPA's proposal to repeal these three requirements is well-supported by the Clean Air Act. As the agency notes, when deciding to revise standards pursuant to CAA section 112(d)(6), EPA can consider the costs of developments in practices, processes, and control technologies.[81] Nevertheless, the agency seems open to persuasion that it should go further, seeking comment on—

- A proposed finding that, given the high costs and potential technical feasibility concerns with implementing the 2024 MATS standards, the 2024 changes were not "necessary" under Section 112(d)(6).[82]

- Whether, when weighing the costs associated with technology developments during the Section 112(d)(6) technology review, EPA should consider if any meaningful risk reduction would be obtained from further reducing HAP emissions. In the 2020 RTR, EPA found the residual risks due to emissions of air toxics from coal- and oil-fired steam generating units were acceptable and that the current 2012 MATS provided an ample

[79] *Id.* at 25543.
[80] *Id.* at 25543-44.
[81] *Id.* at 25544 (citing *Ass'n of Battery Recyclers, Inc. v. EPA*, 716 F.3d 667, 673-74 (D.C. Cir. 2013); *Nat'l Ass'n for Surface Finishing v. EPA*, 795 F.3d 1, 11 (D.C. Cir. 2015)); 42 U.S.C. § 7412(d)(6).
[82] National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units, 90 Fed. Reg. at 25544.

margin of safety to protect public health and prevent an adverse environmental effect.[83] Specifically, the risk analysis indicated that both the actual and allowable inhalation cancer risk to the individual most exposed was well below 100-in-1 million, which is EPA's presumptive limit of acceptability.

Industry has argued that either approach is grounded in the text of Section 112(d)(6)'s technology review, which requires EPA to "review" a NESHAP every 8 years and revise it "as necessary." For example, an industry motion to stay an RTR for coke ovens argues that the best reading of Section 112(d)(6) requires EPA to consider factors like cost and risk: "revise, and revise as necessary" does not prohibit EPA from considering any relevant factors in deciding whether to revise a standard as a result of the technology review and—moreover—"as necessary" is "broad, open-ended language that presumptively includes considering factors such as public health risk and cost."[84]

2. Criticisms of the MATS Deregulatory Proposal

To date, public criticism of the proposal has focused on what some may see as the negative impacts of deregulation. Although Administrator Zeldin noted the substantial reductions the power sector has made to its mercury and air toxic emissions in the last fifteen years,[85] EPA has been accused of "giving a free pass to the nation's dirtiest power plants and most toxic pollutants."[86] And, critics of repealing this standard may take issue with EPA's cost analysis. After all, EPA still seems to recognize (as it did in the 2024 MATS) that "a large majority of sources have reported measured compliance data showing fPM emissions that are well below the previous fPM standard of 0.030 lb/MMBtu."[87]

Perhaps sensitive to these concerns (and despite simultaneously) entertaining comments on broader interpretative issues with Section 112(d)(6), the agency also shows itself open to something less than a full repeal. Regarding the fPM standard and the mercury standard for lignite-fired units, EPA explicitly solicits comment on whether there are other cost-effective and achievable limits that the agency should consider as an alternative to repealing the standards set by the 2024 MATS.[88]

[83] In fact, when EPA proposed the 2024 MATS, EPA determined not to reopen the 2020 RTR, and accordingly did not propose any revisions to that review. *Id.* at 255411, n.21.
[84] Motion for Stay, American Coke and Coal Chems. Instit. v. EPA, Case No. 24-1290 (D.C. Cir. Sept. 30, 2024), *available at* https://www.4cleanair.org/wp-content/uploads/ACCCI-v.-EPA-ACCCI-and-COETF-Stay-Motion-9-30-24.pdf.
[85] *EPA Proposes Repeal of Biden-Harris Regulations,* , *supra* n.11 ("Acid gas emissions have almost been eliminated," Zeldin said. "Emissions of the mercury metals, including nickel, arsenic and lead have been reduced by more than 81%. We're not eliminating MATS. We're proposing to revise it to remove the gratuitous requirements added by the Biden administration in 2024.").
[86] Jake Spring, *EPA Moves to Repeal Limits on Greenhouse Gas Emissions by Power Plants*, WASHINGTON POST (June 11, 2025) (quoting Sheldon Whitehouse (D-Rhode Island)).
[87] National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units, 90 Fed. Reg. at 25542.
[88] *Id.* at 25544-45.

IV. Challenges Faced

EPA's deregulatory agenda is extremely ambitious, both in general and regarding Clean Air Act rules and policies. Across the board, EPA faces some substantial challenges.

- Timing

With few exceptions, litigation is already pending regarding the current version of the rules on EPA's Clean Air Act deregulatory agenda. It would be unimaginable that deregulatory action on these rules by the Trump Administration will not face the same fate. But to be able to defend its own regulatory changes in court (rather than leaving it to the next administration), the agency will need to issue final rules by mid-2027. Since EPA has only issued two proposals so far—nearly six months into the administration—the agency must dedicate real resources to publishing proposals for its other priorities in the next 6-12 months.

- Budget cuts

Despite the aggressive agenda (consistent with White House recommendations), EPA's proposed plan for fiscal year 2026 (beginning October 1, 2025) would cut the budget by 54% from fiscal year 2025, which EPA notes supports decreasing the agency's workforce by around 10%.[89] EPA will truly have to do more with less if it means to accomplish everything on its deregulatory agenda on top of meeting statutory and court deadlines and attending to lower profile, but no less important, regulatory obligations.

Overall, EPA proposes to reduce the budget for clean air programs by more than $122 million. While the proposed fiscal year 2026 budget for "federal stationary source regulations" is higher than the operating plan for fiscal year 2025, the increase is a mere 2.9%—yielding a budget for EPA's deregulatory activities that is still below what the agency actually spent in fiscal year 2024.[90]

Additionally, despite Administrator Zeldin's pledge to assist states with their unique environmental issues and honor cooperative federalism, the 2026 EPA budget proposal would also slash funding for state regulators. Categorical grants for state and local air quality management would total only $16.3 million—a decrease of 93.75% from 2025.[91] According to the Association of Air Pollution Control Agencies, "[s]tates carry out 90 percent of the nation's federal environmental programs, and all fifty states serve as primary implementers and enforcers of most CAA standards."[92] This is by design: the Clean Air Act and our nation's other major environmental statutes rely on a system of cooperative federalism whereby Congress establishes national policy and priorities in statute, EPA sets national minimum regulations, and state

[89] ENV'T PROT. AGENCY, OFF. OF THE CHIEF FIN. OFFICER, EPA-190-R-25-001, FY 2026 EPA BUDGET IN BRIEF 3 (2025).
[90] *Id*. at 25.
[91] *Id*. at 37.
[92] ASS'N OF AIR POLLUTION CONTROL AGENCIES, TESTIMONY SUBMITTED TO THE U.S. SENATE APPROPRIATIONS SUBCOMM. ON INTERIOR, ENV'T, AND RELATED AGENCIES REGARDING FISCAL YEAR 2026 APPROPRIATIONS FOR U.S. ENV'T PROT. AGENCY STATE AND LOCAL AIR QUALITY MGMT. GRANTS 1 (2025), https://cleanairact.org/wp-content/uploads/2025/06/AAPCA-Testimony-Senate-Appropriations-Interior-Environment-Subcommittee-6-13-25-FINAL.pdf.

implement these regulations through federal approval or delegation. EPA's proposed budget says it is focused on "back-to-basics," including "empower[ing] the states," but it is hard to see how such minimal funding would do that.

- A shrinking workforce

Emblematic of the challenges posed by likely budget cuts, EPA must somehow carry out its "historic" deregulatory agenda while continuing to fulfill its core functions, including meeting various statutory and court-ordered deadlines to issue regulations or take other affirmative actions.

In 2024, EPA had over 17,700 employees. As of April 2025, that number had decreased to 16,200, a nearly 10% decrease in its workforce in a matter of months.[93] Many more employees are at risk due to the Trump administration's aggressive approach to reducing federal spending. As of May 30, 2025, more than 2,600 EPA employees had applied for the Deferred Resignation Program and Voluntary Early Retirement Authority.[94] These losses will make it difficult for EPA to undertake "the greatest day of deregulation our nation has ever seen."[95]

The former director of the Office of Atmospheric Protection noted that the deregulatory plans are "highly ambitious" even if the pre-reduction staffing level was reinstated, and sees a "profound conflict" between the budget and staffing cuts and the deregulatory agenda.[96] The agency is already facing the reality of a reduced workforce in its attempts to draft risk evaluations for several chemicals under the Toxic Substances Control Act by the end of the year as required by a court-ordered settlement.[97] Although President Trump vowed to transfer over 100 employees from the Office of Research and Development, reorganization of a federal agency is not that simple, and the reorganization efforts have been blocked in court.[98]

V. Conclusion

If EPA can overcome the challenges posed by finite resources in terms of time, budget, and staffing, and enact the reforms announced this year, it will inevitably face litigation. As discussed in this paper, some potential litigants have begun to preview their legal concerns with the proposed repeals of Section 111 GHG standards and aspects of the 2024 MATS. More will be known in time about the strength of challenges to these rules and to deregulatory actions yet to be proposed. Either way, that is just fine with Administrator Zeldin:

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[93] Ivan Ditmars, *EPA Staff Down 10% as More Trump Firings Loom, Records Show*, CENTER FOR BIOLOGICAL DIVERSITY (May 30, 2025), https://biologicaldiversity.org/w/news/press-releases/epa-staff-down-10-as-more-trump-firings-loom-records-show-2025-05-30/.

[94] *Thousands of Employees Apply to Leave EPA Amid Morale Collapse*, INSIDE EPA (June 6, 2025), https://insideepa.com/daily-news/thousands-employees-apply-leave-epa-amid-morale-collapse?utm_medium=mh.

[95] Press Release, Env't Prot. Agency, EPA Launches Biggest Deregulatory Action in U.S. History (Mar. 12, 2025), https://www.epa.gov/newsreleases/epa-launches-biggest-deregulatory-action-us-history.

[96] Jean Chemnick, *What EPA's Reorganization Could Mean for Its Climate Staff,* E&E NEWS (May 2, 2025), https://www.eenews.net/articles/what-epas-reorganization-could-mean-for-its-climate-staff/.

[97] *Staff Cuts, Court-Ordered Deadlines Strain EPA's Ability to Implement TSCA,* INSIDE EPA (Jun 26, 2025), https://insideepa.com/daily-news/staff-cuts-court-ordered-deadlines-strain-epa-s-ability-implement-tsca.

[98] *Id.*

"As far as litigation goes, I understand that as administrator of EPA on every single decision that I make with regards to anything, whether I say yes or no, someone will probably sue me, it just comes with the job, and I know what I signed up for," Zeldin told reporters.[99]

[99] Hijazi, *supra* n.33.