

AUGUST 6, 2026

Federal Legislative and Regulatory Update

Texas Environmental Superconference

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Federal Environmental Law Updates: Legislative & Regulatory Developments

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Federal Environmental Law Updates: Legislative & Regulatory Developments

- **EPA's Risk Management Program (RMP)** – Proposed rollback of the 2024 Safer Communities by Chemical Accident Prevention rule.
- **Federal PFAS Developments** – Drinking water standards, reporting, and waste management.
- **TSCA Rulemakings** – Risk evaluation framework reconsideration and other rulemakings.

RMP Update

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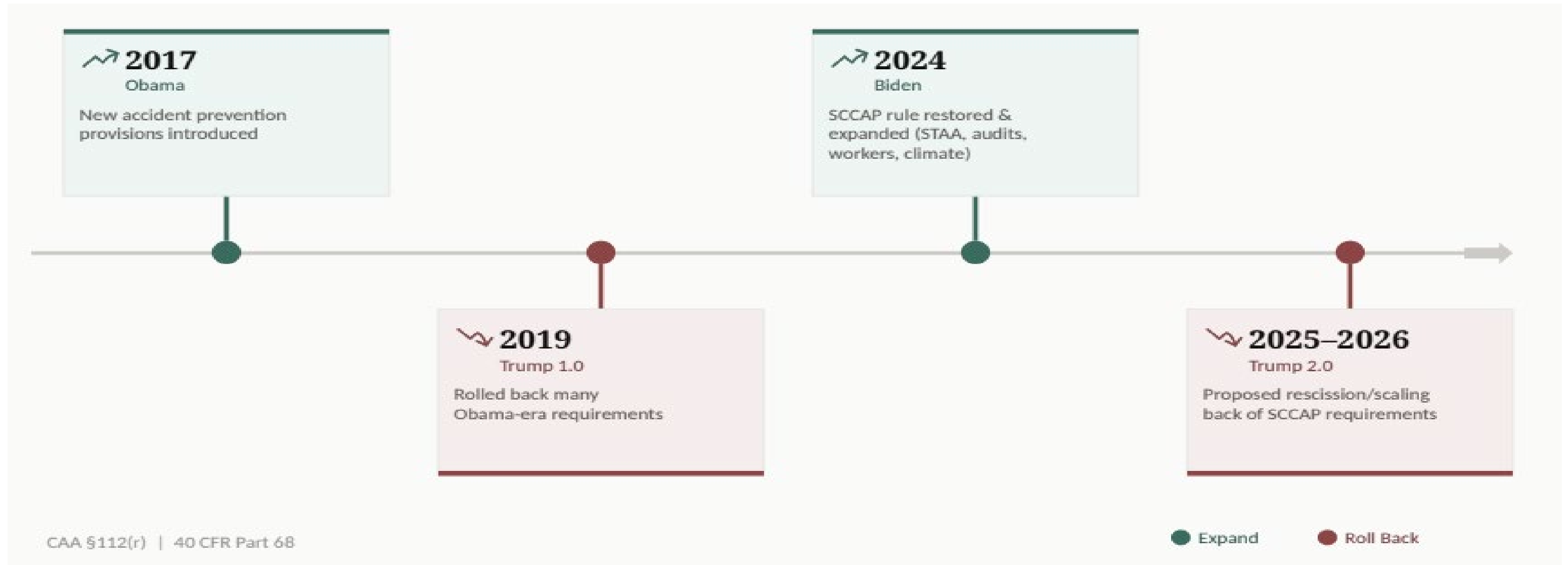
RMP Update

- EPA's "Common Sense Approach to Chemical Accident Prevention" proposed rule published February 24, 2026.
- EPA frames the proposal as avoiding duplicative requirements, being data driven, and realigning RMP with OSHA's Process Safety Management (PSM) standard.



RMP Recent History

It's Been a Journey



Key Proposed Changes

February 2026 RMP Rulemaking • CAA §112(r)

← ROLLBACKS



STAA

Safer Technology & Alternatives Analysis

Rescind STAA requirement for Program 3 facilities in petroleum/chemical sectors (NAICS 324/325)



Third-Party Audits

Compliance Verification

Two options: rescind entirely, or narrow to facilities with 2+ RMP-reportable accidents in 5 years



Employee Participation

Worker Engagement Provisions

Scale back expanded consultation provisions and stop-work authority



Natural Hazards / Climate

Process Hazard Analysis Scope

Remove requirements to evaluate natural hazards (including climate change) in PHAs

Source: EPA Proposed Rule, 40 CFR Part 68 (February 2026)

RMP – Next Steps

- Litigation challenging the 2024 SCCAP rule held in abeyance while EPA proceeds with rulemaking (State of Oklahoma, et al. v. EPA, et al., Docket No. 24-1125).
- Industry challenge to EPA's denial of reconsideration petition also pending (National Association of Chemical Distributors v. EPA, No. 25-1075 (D.C. Cir.)).
- Additional litigation challenging a final rule is expected.



Federal PFAS Update

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Federal PFAS Developments – Drinking Water Standards

- Biden EPA set MCLs for six PFAS compounds in drinking water in 2024.
- EPA's May 2026 Comprehensive PFAS Strategy includes two proposed rules:
 - Extend PFOA/PFOS compliance deadline from April 2029 to April 2031 via federal exemption framework.
 - Rescind regulatory determinations for four other PFAS, citing Biden EPA's failure to follow required SDWA sequential process.
- In April 2026, EPA published the draft Sixth Contaminant Candidate List (CCL 6) for public comment under the SDWA, which includes the PFAS chemical group.
 - The CCL does not impose requirements, it is the first step in the SDWA regulatory framework.



Federal PFAS Developments – Waste Management

- EPA has indicated an intent to finalize a rule proposed in February 2024 that would list 9 PFAS compounds as hazardous under RCRA, including PFOA, PFOS, and GenX.
 - As proposed, the rule would provide EPA authority to investigate / address releases of regulated PFAS from permitted facilities.
- EPA released an updated Interim Guidance on the Destruction and Disposal of PFAS and Materials Containing PFAS in April 2026.
 - Broadly, the guidance discusses three technologies for the destruction / disposal of PFAS (thermal treatment, landfilling, underground injection) and scientific information on the current understanding of PFAS.



Federal PFAS Developments – Reporting

- **TRI** – EPA continues to add PFAS to TRI, and there are currently over 200 PFAS compounds listed and subject to TRI reporting.
 - Newly listed PFAS are typically excluded from de minimis exemptions and simplified reporting.
- **NPDES Permitting** – EPA’s regulatory agenda indicates EPA’s intent to incorporate PFAS monitoring and reporting requirements in NPDES permitting.
- **TSCA PFAS Reporting** – EPA has delayed the reporting period under TSCA § 8(a)(7), and submissions are due by October 13, 2026 for most manufacturers / importers.
 - With the delay, EPA aims to obtain more comprehensive and reliable information related to chemical identity, uses, volumes made and processed, byproducts, environmental and health effects, worker exposure, and disposal.

Key Takeaway – PFAS continues to be a regulatory priority for the current administration. Expect measured, science-based regulatory action.

TSCA Updates

ReedSmith



TSCA – Risk Evaluation Framework Reconsideration

- Biden EPA finalized an amended risk evaluation framework rule in 2024 requiring a whole-chemical risk determination.
- In September 2025, EPA published proposed amendments to the framework rule to rescind or revise the Biden EPA rule.
- Key issues under reconsideration:
 - Whether to return to condition-of-use-based risk determinations vs. single whole-chemical approach.
 - Scope of risk evaluations and what exposure pathways / uses to assess.
- United Steel Workers v. EPA, No. 24-1151 (D.C. Cir.) challenged the 2024 risk evaluation framework rule and is current in abeyance pending the current rulemaking.

Final Rule Expected in 2026



TSCA – Rulemaking Update

- EPA's July 2026 Unified Agenda includes several TSCA rulemakings.
 - **PCE and TCE** – EPA is considering amendments to aspects of the December 2024 rulemaking related to unreasonable risk presented by PCE and TCE. EPA intends to publish a final rule in July 2027 with the overall goal of phasing out these chemicals.
 - **1-Bromopropane (1-BP)** – 1-BP is a widely used solvent in a variety of occupational and consumer applications, including vapor degreasing, aerosol degreasing, adhesives and sealants, and in insulation. EPA has determined that 1-BP presents an unreasonable risk due to the significant adverse health effects and is developing a final rule that proposes to prevent consumer access and restrict industrial and commercial use of the chemical.
 - **NMP** – EPA issued a proposed rule in 2024 and is currently developing a final rule to address NMP unreasonable risk. Notable proposed controls include a prohibition on NMP manufacture / import, processing, and distribution and worker protections.

TSCA – Other Actions

- New Chemicals Backlog: Significant backlog of § 5 submissions (PMNs, SNUNs, LVEs), and review times continue to exceed statutory 90-day period.
- Section 26(b) Fee Authority: EPA's authority to collect TSCA fees expires at the end of FY2026. Congress is considering reauthorizing the fee collection authority likely for another 10 years.
- EPA announced in June 2026 that it is seeking to develop a durable TSCA regulation for legacy uses and associated disposals of asbestos, non-chrysotile and chrysotile asbestos fiber types, and asbestos-containing talc. An NPRM is expected in February 2027.



Major International Environmental Actions

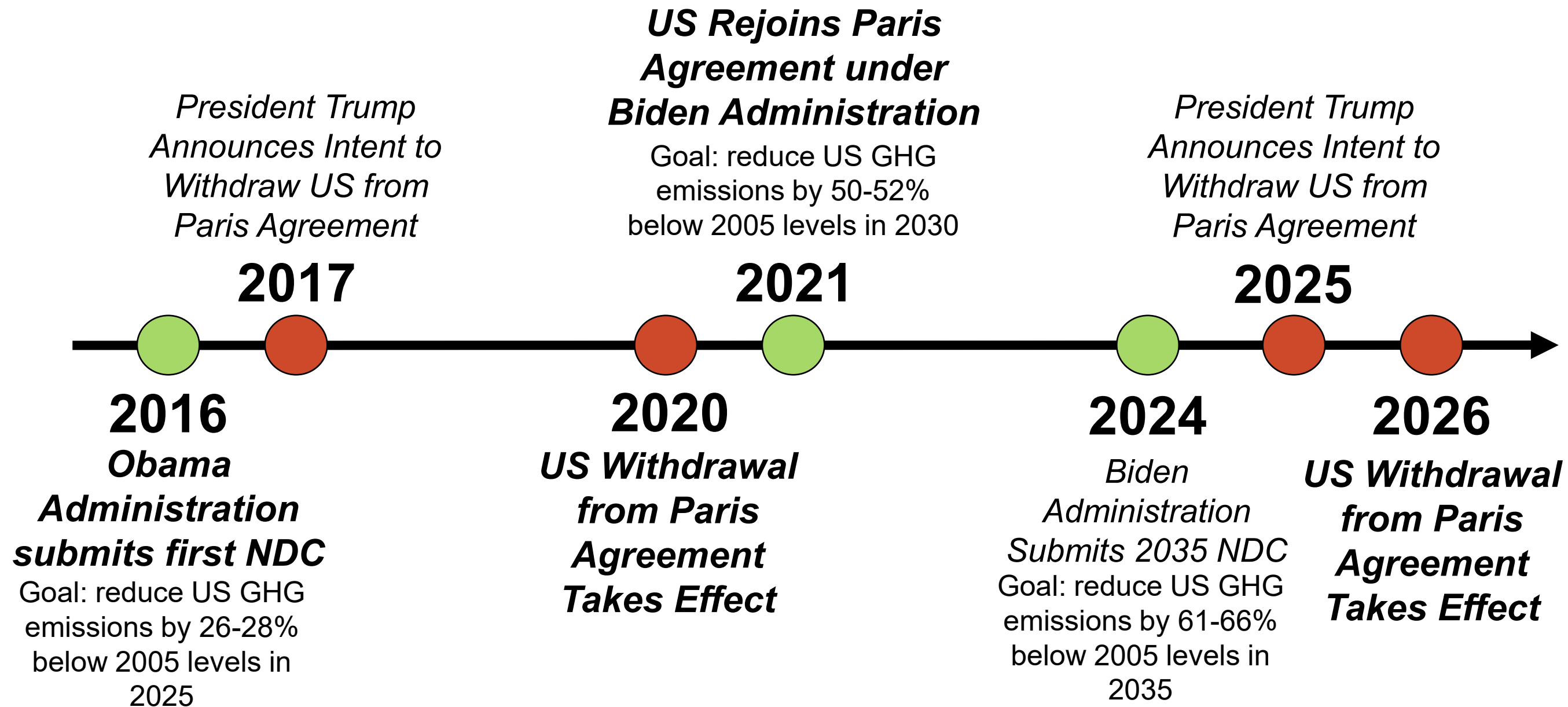
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Paris Climate Agreement

- The **Paris Agreement** is a **legally binding international treaty on climate change** which entered into force in 2016
- Its goal is to limit global temperature rise to well below 2°C – and preferably to 1.5°C – above pre-industrial levels
- Each of the 194 participating countries must **set and communicate its own climate action plan**, known as a Nationally Determined Contribution (NDC)

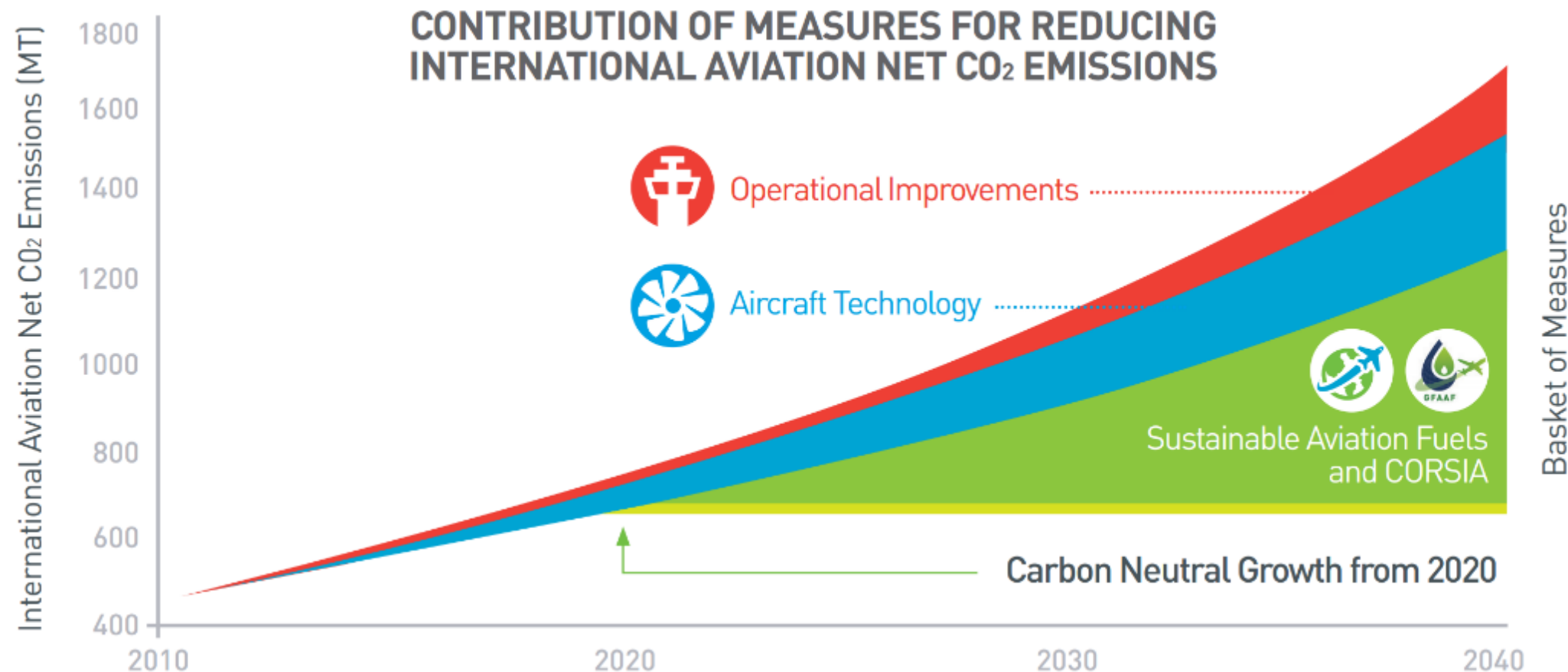


United States / Paris Agreement Timeline



Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA)

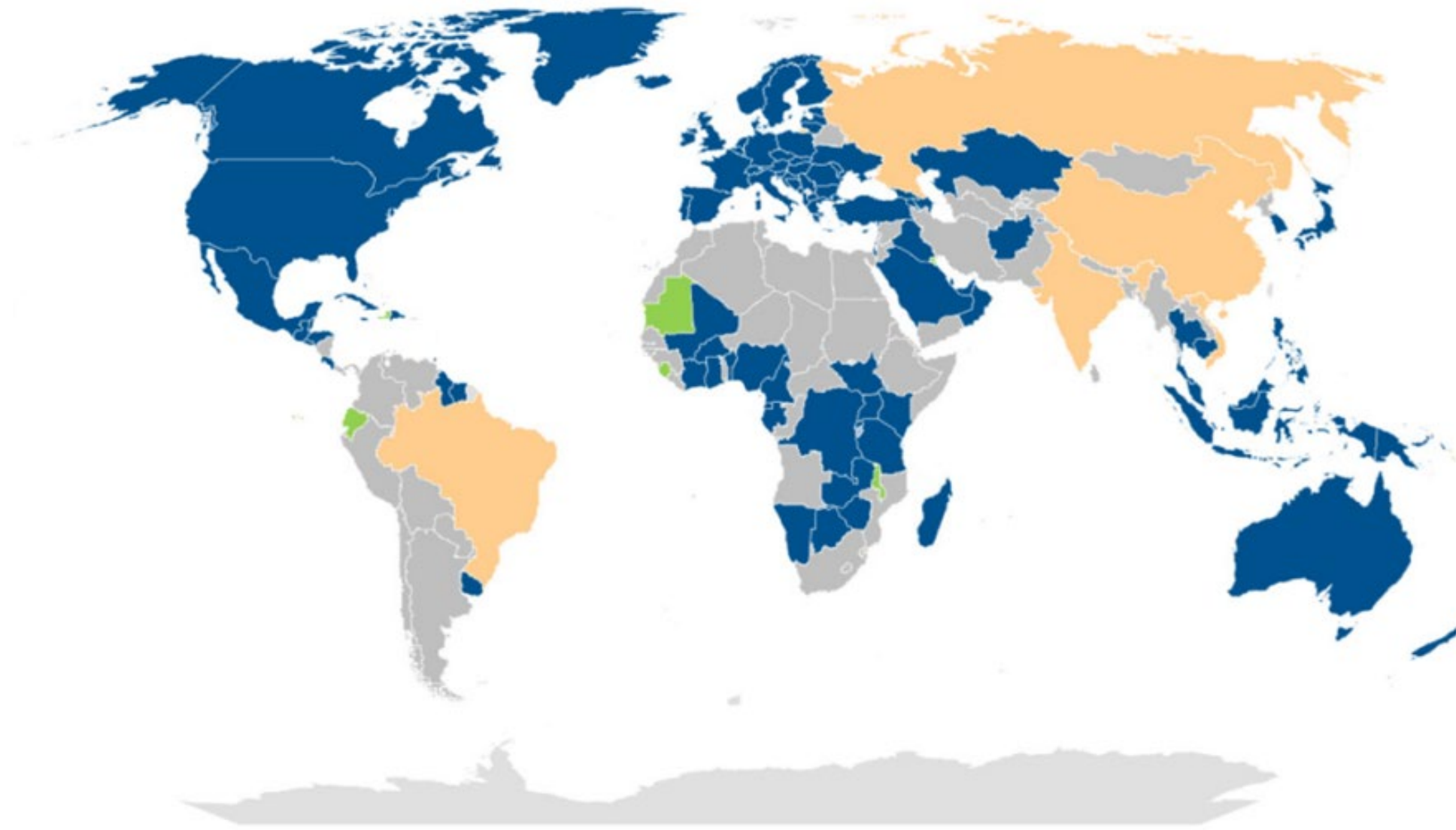
- CORSIA is a **global market-based scheme** established by the International Civil Aviation Organization (ICAO) to address GHG emissions from **international aviation**
- Goal: keep net emissions from international aviation **at or below 85% of 2019 levels**



- CORSIA **complements other aviation emission reduction efforts** like improving operational efficiency and aircraft technology and using sustainable aviation fuel
- Airlines purchase CORSIA-approved **carbon credits** to offset remaining emissions exceeding target levels

CORSIA Implementation Stages

- **Pilot Phase (2021–2023):** voluntary participation to test frameworks
- **First Phase (2024–2026):** airlines operating international flights between voluntarily-participating countries must offset emissions
- **Second Phase (2027–2035):** mandatory participation for most ICAO countries
- As of 2026, **130 countries** (including the U.S.) participate in CORSIA



■ Pilot phase (2021-2023) ■ First phase (2024-2026) ■ Second phase (2027-2035) ■ Exempt

ICAO member states' participation in CORSIA's different phases.

- MARPOL is the main international agreement on **preventing pollution from ships**, developed by the International Maritime Organization (IMO)

- It consists of **six Annexes** regulating sources of ship-generated pollution
- The U.S. is signatory to Annexes I, II, III, V and VI and has equivalent regulations to Annex IV under the Federal Water Pollution Control Act (FWPCA) as amended by the Clean Water Act

International Convention for the Prevention of Pollution from Ships (MARPOL)



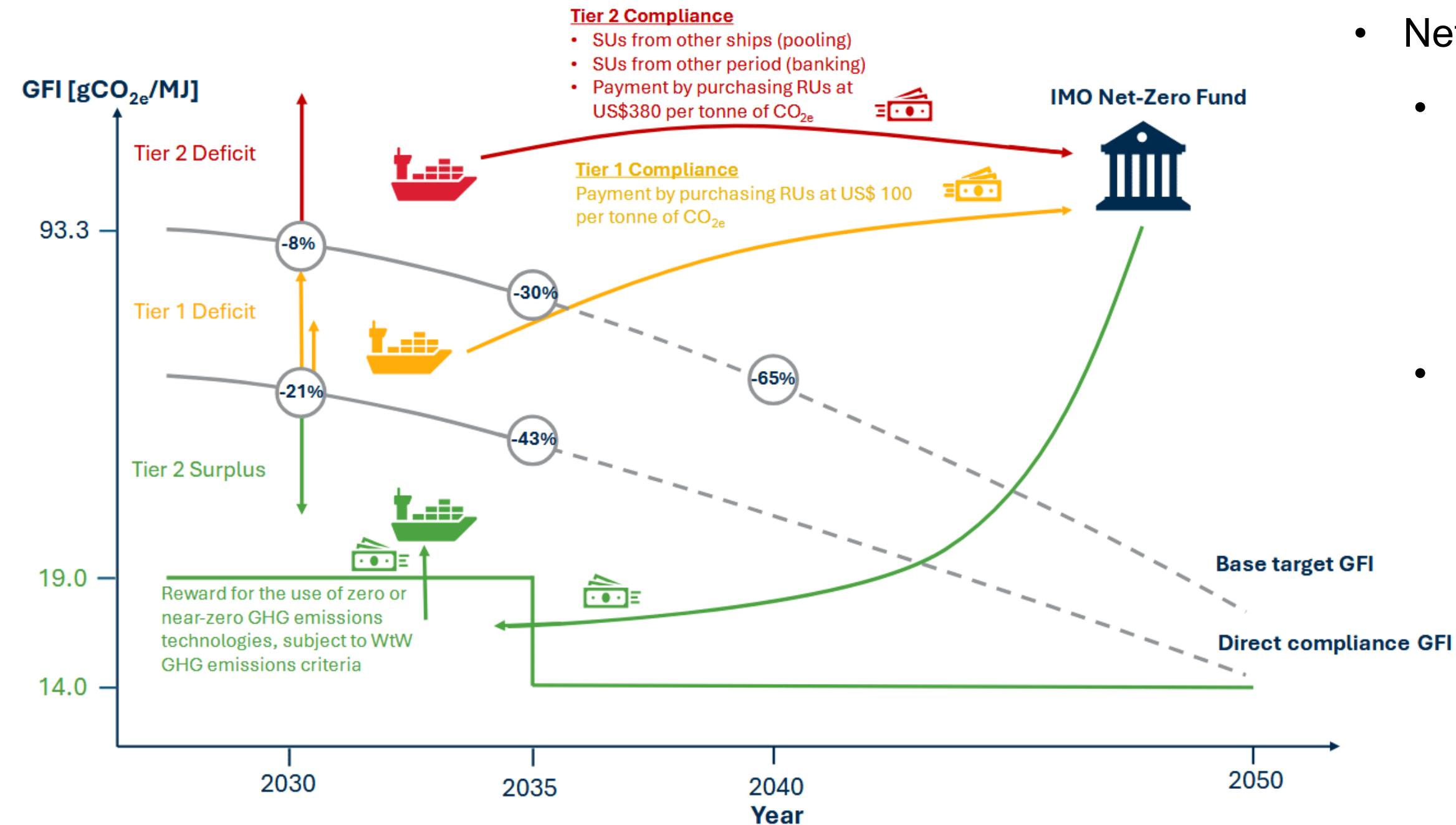
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IMO Net-Zero Framework

- In 2025, the IMO approved amendments to MARPOL Annex VI aimed at reducing GHG emissions from ships and is expected to **revisit adoption in October 2026**

- Net-Zero Framework components:

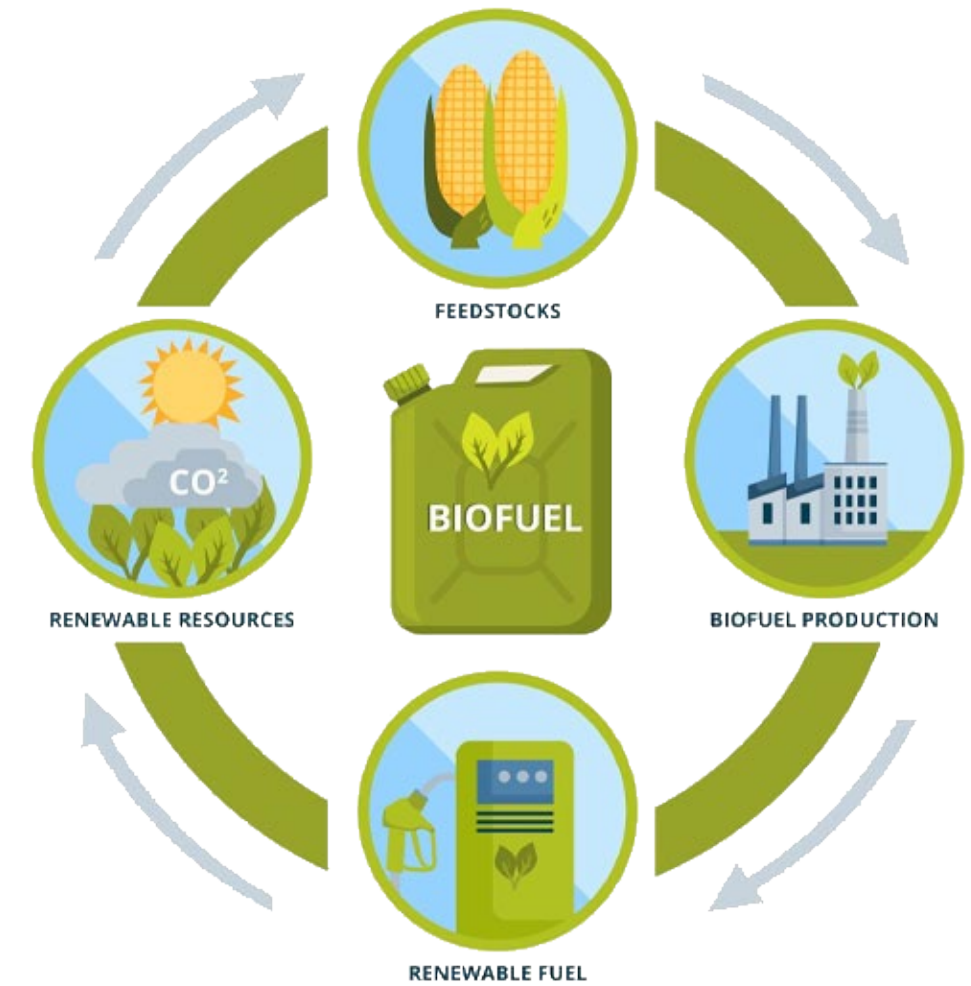
- Fuel Standard:** ships must gradually reduce their annual greenhouse gas fuel intensity (GFI) (how much GHG is emitted for each unit of energy used)
- Pricing Mechanism:** ships emitting above GFI limits must pay for excess emissions by purchasing “Remedial Units”
 - Ships that fail to meet base emissions limits pay \$380/unit
 - Ships that meet a lower emissions-intensity reduction target but miss a more difficult upper threshold pay \$100/unit



Renewable Fuel Standard (RFS) Rulemaking

The Renewable Fuels Standard (RFS)

- The RFS is a U.S. federal program requiring that surface transportation fuel contains **minimum volumes of renewable fuel**
- It specifies **renewable volume obligations (RVOs)** – volume mandates of biofuels for each renewable fuel category – which are converted into **percentage standards**



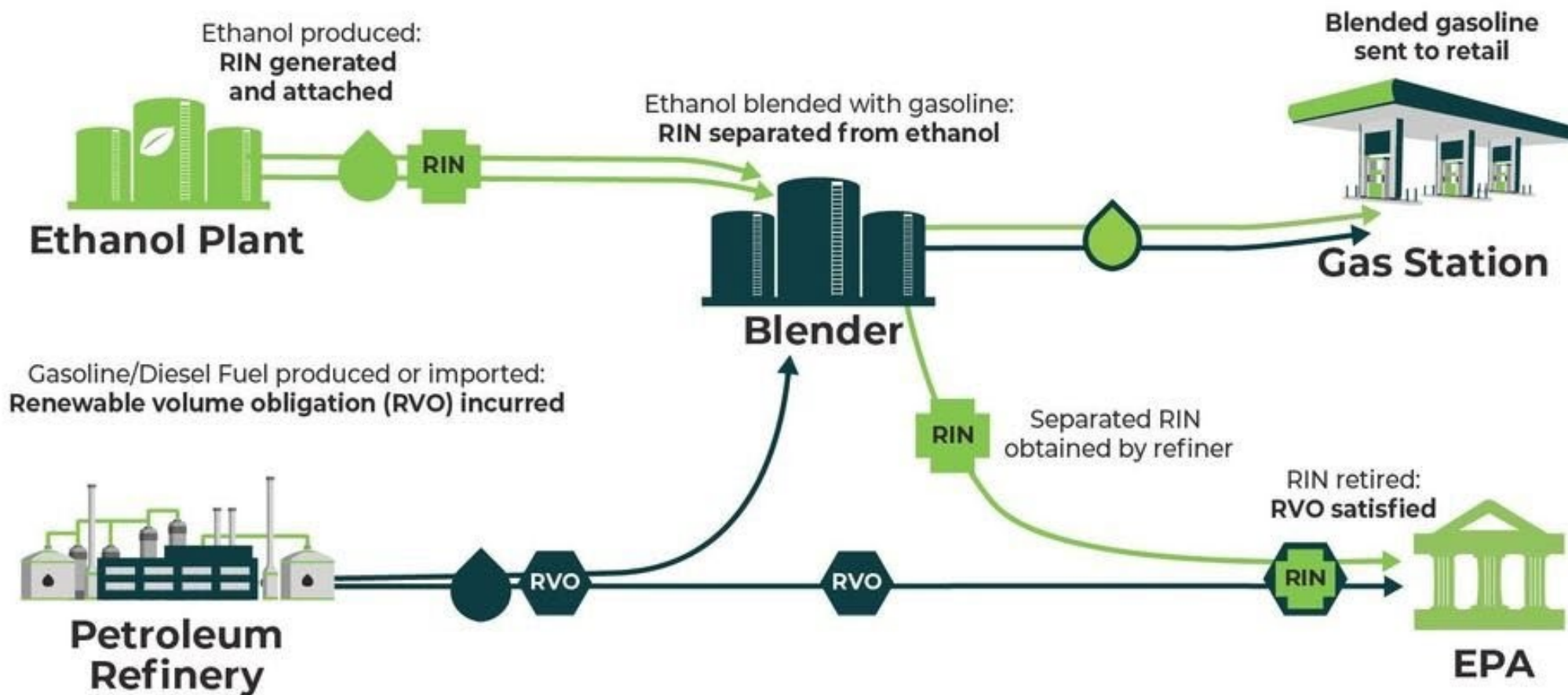
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- RFS statutes require EPA to **set RVOs in annual rulemakings** based on six statutory factors:
 - environmental impacts
 - energy security
 - projected production
 - infrastructure constraints
 - consumer costs
 - other economic impacts

RFS Compliance: RINs

- Fuel refiners and importers comply by obtaining and retiring for compliance
Renewable Identification Numbers (RINs)

RIN LIFECYCLE



Source: RFA

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- RINs are attached to biofuel moving through the fuel supply but can be **detached and traded** once the biofuel is blended into finished transportation fuel
- Refiners and importers obtain RINs by blending or by buying **RIN-attached renewable fuel** or **detached RINs**
- Obligated parties can incur a partial RIN compliance deficit or store some RINs for compliance the following year as a buffer against fuel supply/demand fluctuations

Recent RFS Developments

- In March, EPA issued its “Set 2” rule finalizing RFS volumes and percentage standards for 2026 and 2027, setting the **highest RVOs in program history**
- The rule **added back in 70%** of renewable fuel obligations that were waived for 2023-2025 through **small refinery exemptions (SREs)**
- It also finalized regulatory changes include **eliminating renewable electricity (eRINs)** as a qualifying fuel under RFS

RFS Standard	Volume Requirement			SRE Reallocation Volume		Total Applicable Volume	
	2025	2026	2027	2026	2027	2026	2027
Cellulosic biofuel	1.21	1.36	1.43	0	0	1.36	1.43
Biomass-based diesel	n/a	8.86	8.95	0.21	0.25	9.07	9.20
Advanced biofuel	n/a	10.82	10.98	0.28	0.34	11.10	11.32
Renewable fuel	n/a	25.82	25.98	0.99	1.04	26.81	27.02

2026 and 2027 Renewable Fuel Volume Requirements, SRE Reallocation Volumes, and Total Applicable Volumes (billion RINs)

Recent RFS Developments

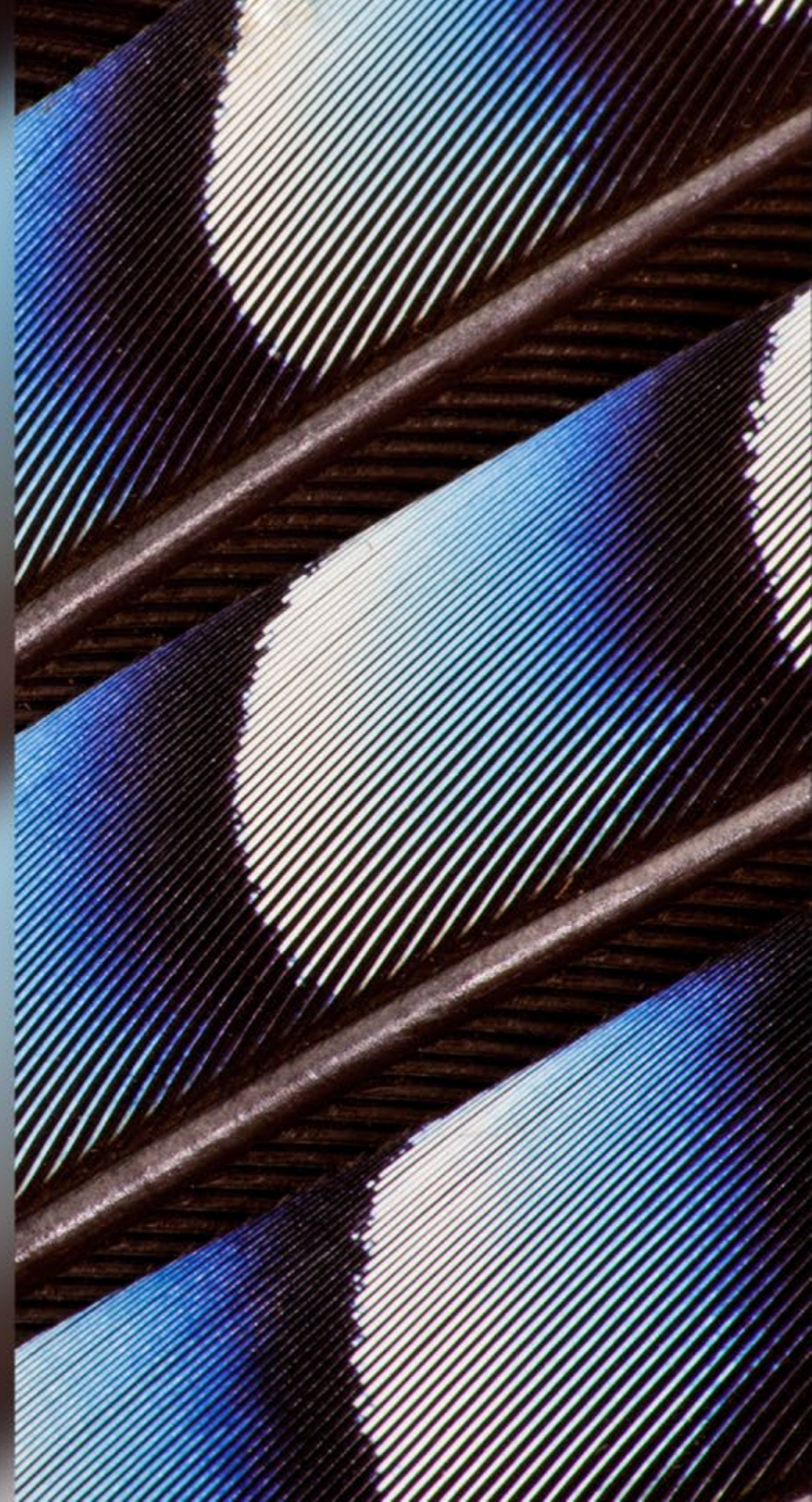
- EPA's rules setting annual RVOs under RFS are **almost always challenged in court**
 - EPA's rules are typically **upheld** or **remanded without vacatur**
- Legal challenges to EPA's "Set 2" rule by **fuel manufacturers, refiners, and environmental groups** have been consolidated in the D.C. Circuit
 - Environmental groups claim the rule violates the ESA and CAA
 - All parties challenge aspects of the rule under the APA
- The statutory deadline to finalize the **2028 RVO proposal** is October 31, 2026, but EPA historically misses its deadlines

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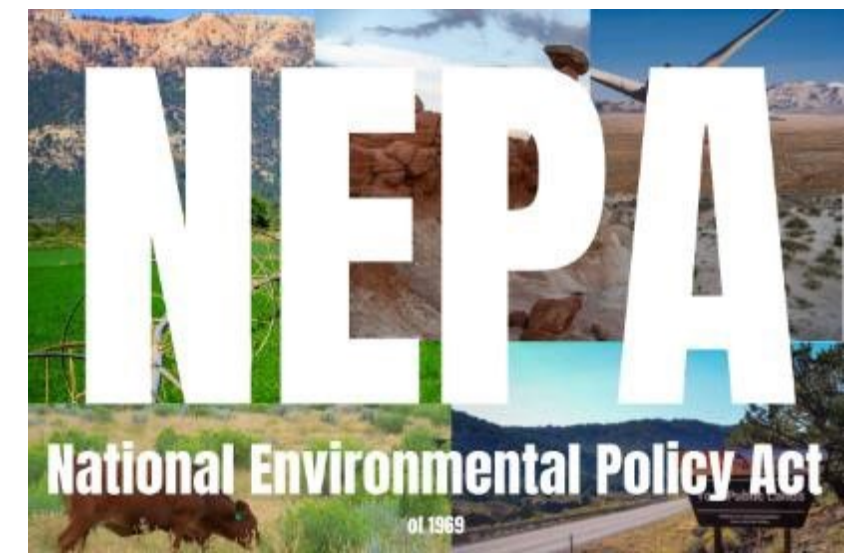
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NEPA Updates



Trajectory of NEPA Reform

- **February 19, 2025: Presidential Memorandum on Implementation of NEPA**
 - Directs agencies to establish their own NEPA procedures
 - Agencies may voluntarily rely on CEQ's regulations pending development of their own procedures
- **February 25, 2025: CEQ rescinds its NEPA regulations**
 - Reverts to agency-specific NEPA procedures guided by CEQ policy memoranda
- **April 15, 2025: Presidential Memorandum on Updating Permitting Technology for the 21st Century**
 - Goals include:
 - Eliminating paper-based applications and reviews
 - Reducing duplicative data submissions
 - Increasing use of existing analysis from other agencies for the same projects
 - Maintaining the same substantive quality of NEPA reviews



NEPA Reform: A Faster, Narrower, More Decentralized Review Process

Faster



Narrower



Decentralized



Agencies with New NEPA Regulations

Final Rules/Revised Procedures

Adopted



Interim Rules

Adopted



US Army Corps of Engineers®



New Rules Proposed



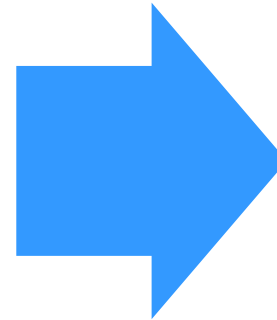
EPA's Proposed New NEPA Regulations



Before

CEQ Regulations Supplied the Baseline

- Public comment was built into more stages of review
- More centralized, governmentwide NEPA framework
 - CEQ rules supplied common definitions and procedures
 - Agencies worked from a shared federal rulebook
 - CEQ played a coordinating role across agencies



After (*Proposed*)

EPA Proposes Agency-Specific Updates

- Discretionary comment periods for some environmental reviews
- Streamlined review tools:
 - Defined schedules for faster completion
 - Shorter, more focused environmental documents
 - Expanded use of categorical exclusions / low-risk pathways

SPEED Act: Proposed NEPA Reforms



Project Timelines

- Adds deadlines for application completeness, review milestones, and final agency action.



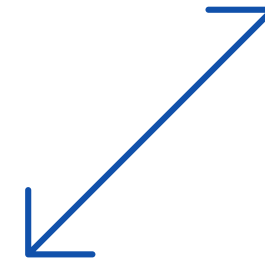
Scope of Review

- Limits review to effects with a close causal relationship to the proposed action.
- No requirement to consider if only “indirectly facilitated” by the proposed action.
- No requirement to analyze impacts remote in time, location, or regulatory authority.



Agency Coordination

- Promotes lead agency oversight, cooperating agencies, and concurrent environmental reviews.



Categorical Exclusions

- Expands agencies' ability to rely on and adopt categorical exclusions.

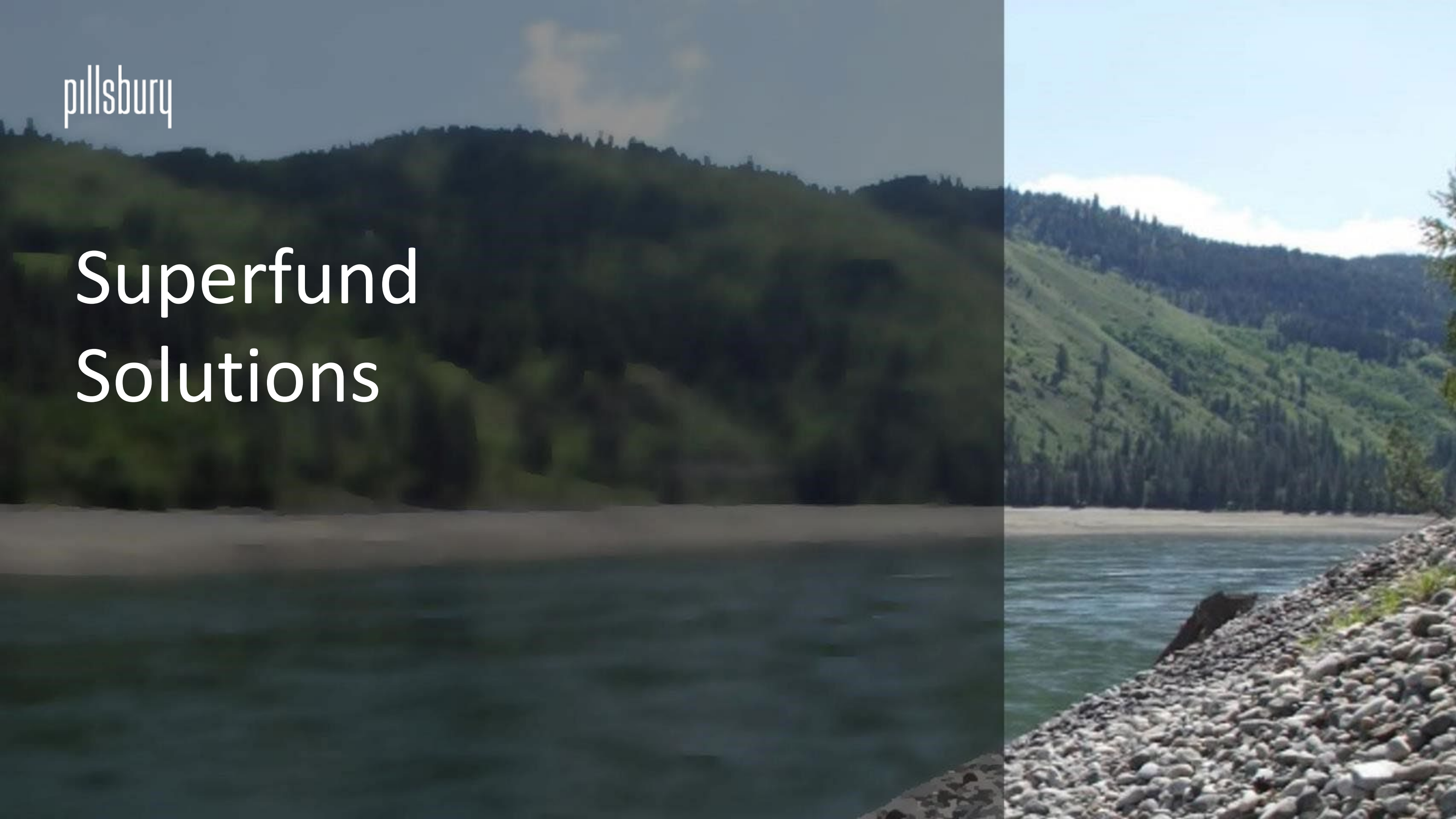


Existing Env't Reviews

- Greater reliance on prior federal/state, tribal, and programmatic environmental reviews.

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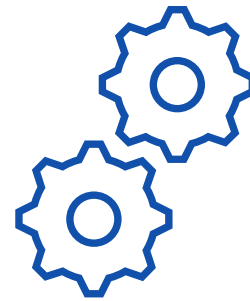
Superfund Solutions



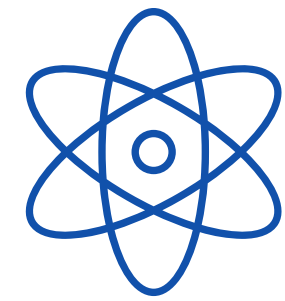
Superfund Solutions Initiative



**Enhanced Project
Management**



**Earlier Use
of Existing Tools**



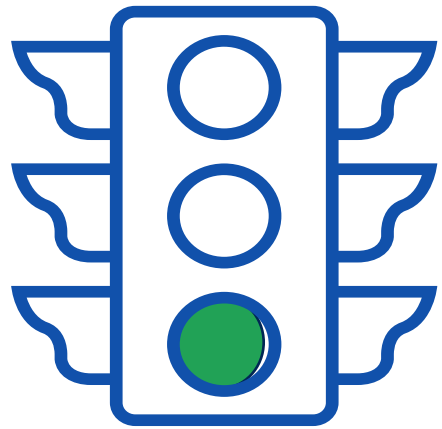
**Smarter Science
for Smarter
Outcomes**

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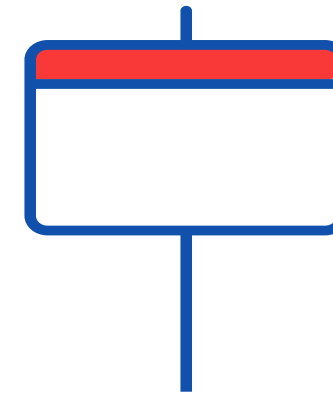
Data Centers



Data Centers: Green Lights and Regulatory Roadblocks

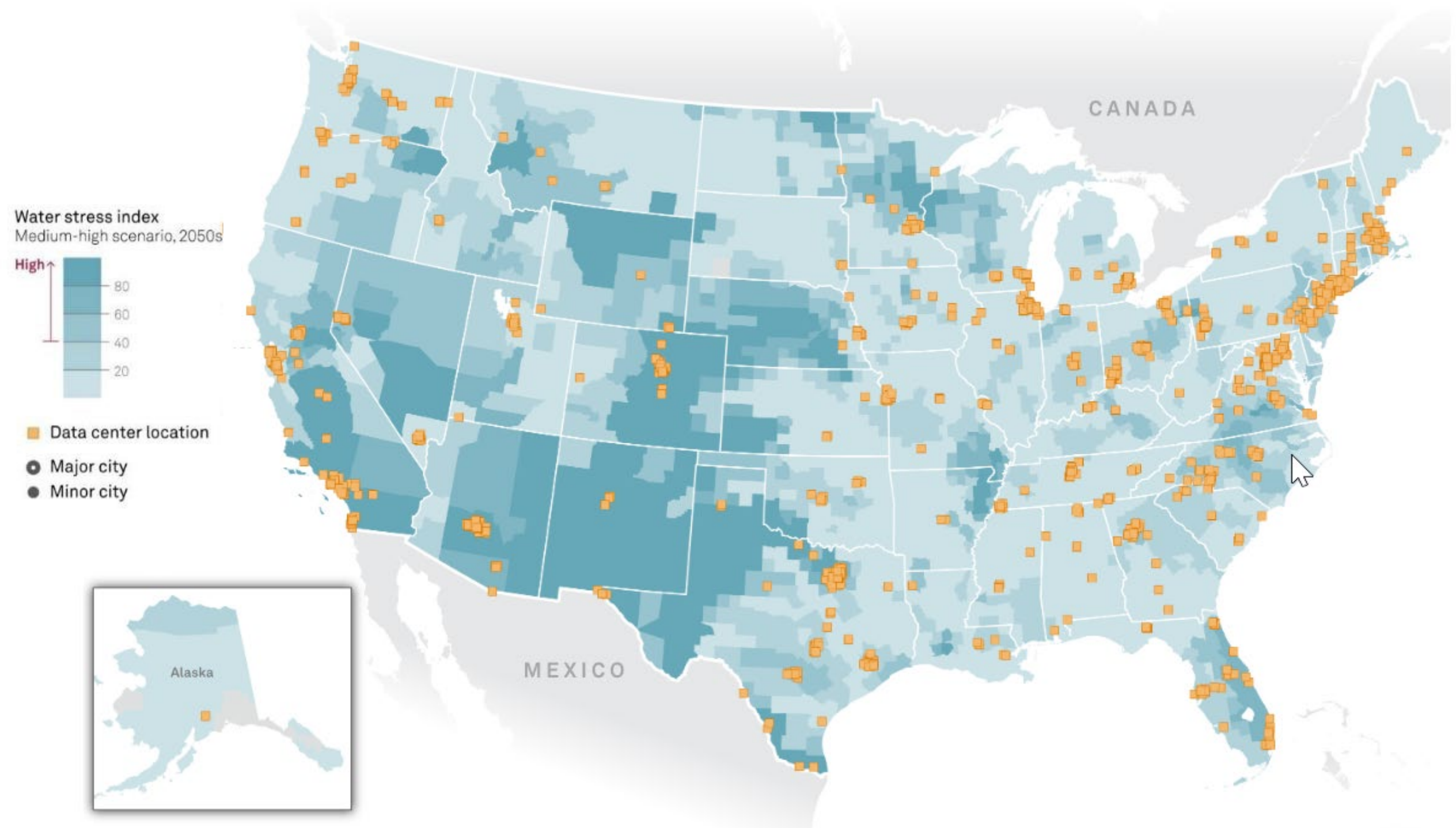


- Federal AI + Infrastructure Support (**EO 14179, EO 14318**)
- Federal Land + Resources
- Water Reuse + Alternative Supplies
- Reuse Infrastructure Incentives



- High Water Consumption + Water Stressed Areas
- Water Availability + Reliability
- Emerging Disclosure Laws
- Water Quality + Discharge Risks
- Patchwork State + Local Reuse Rules
- Local Resistance

Data center locations and water stress



Source: Rapid data center growth faces sustainability challenges: Increasing emissions and water stress, S&P Global (using Sustainable Physical Climate Risk data, as of May 2025)
<https://www.spglobal.com/en/research-insights/special-reports/look-forward/data-center-frontiers/data-center-sustainability-faces-challenges-amid-growth>

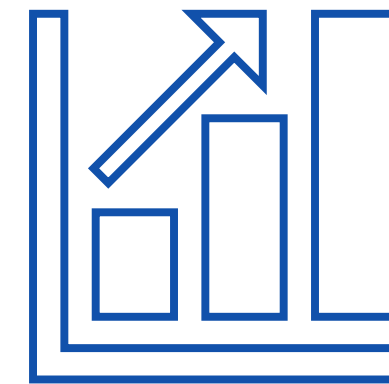
Data Centers Heating Up



Data centers often
rely on water for
their extensive
cooling
requirements

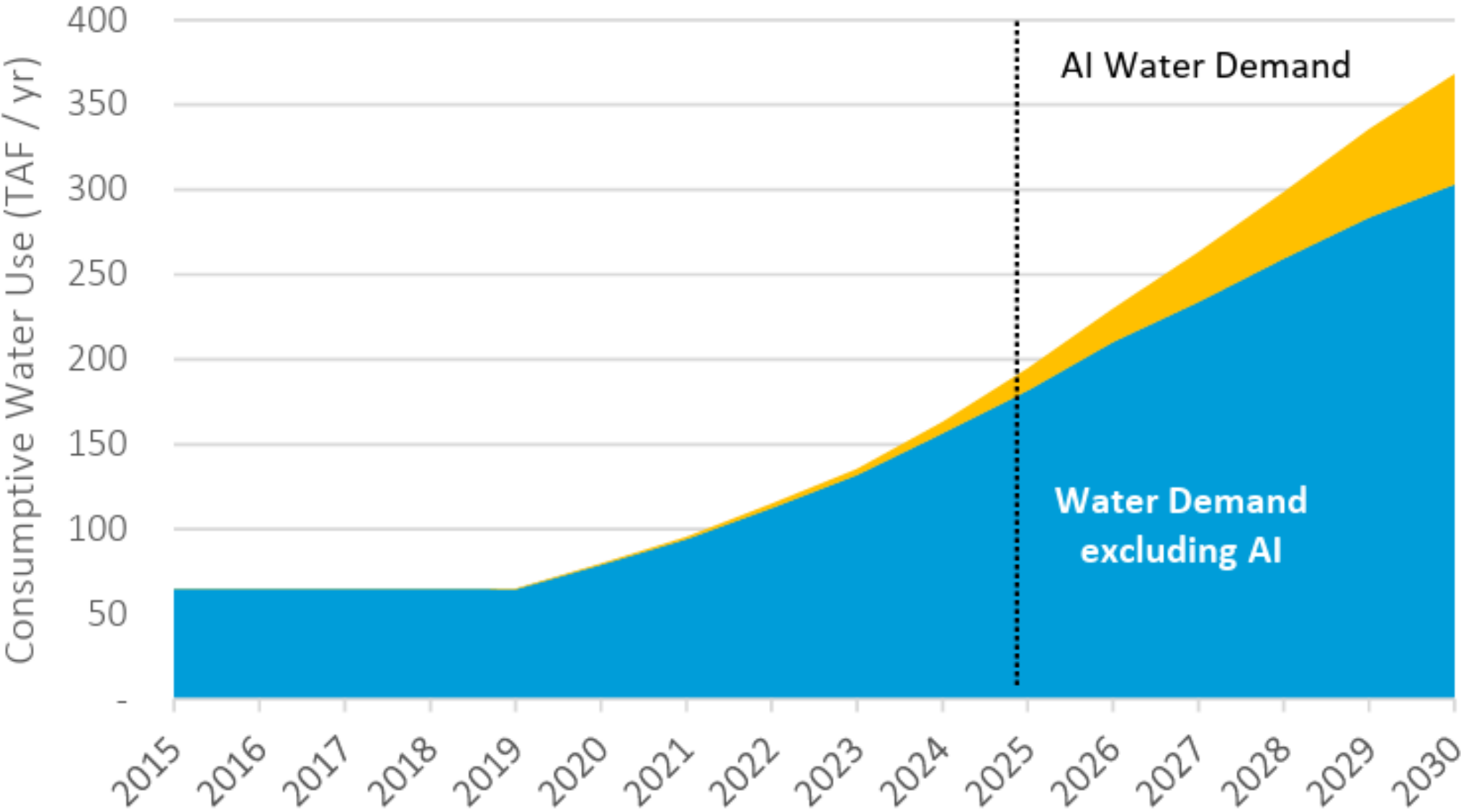


US data
centers used
228 billion
gallons of
water in 2023



Water use by
data centers
projected
to increase by
up
to 170% by
2030

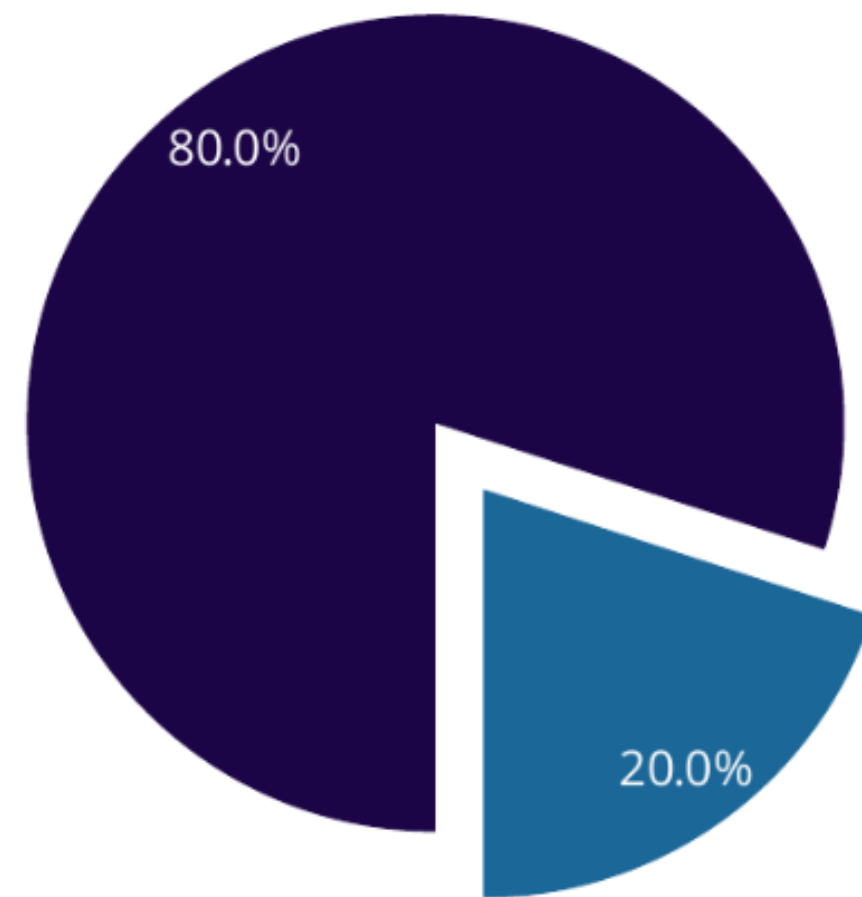
Data Center Water Consumption



Source: Estimating Data Center Water Demand, West Water Research
<https://westwaterresearch.com/wp-content/uploads/2025/03/2025-Q2-Water-Market-Insider-Data-Centers.pdf>

Direct v. Indirect Use

■ Direct water usage
■ Indirect water usage

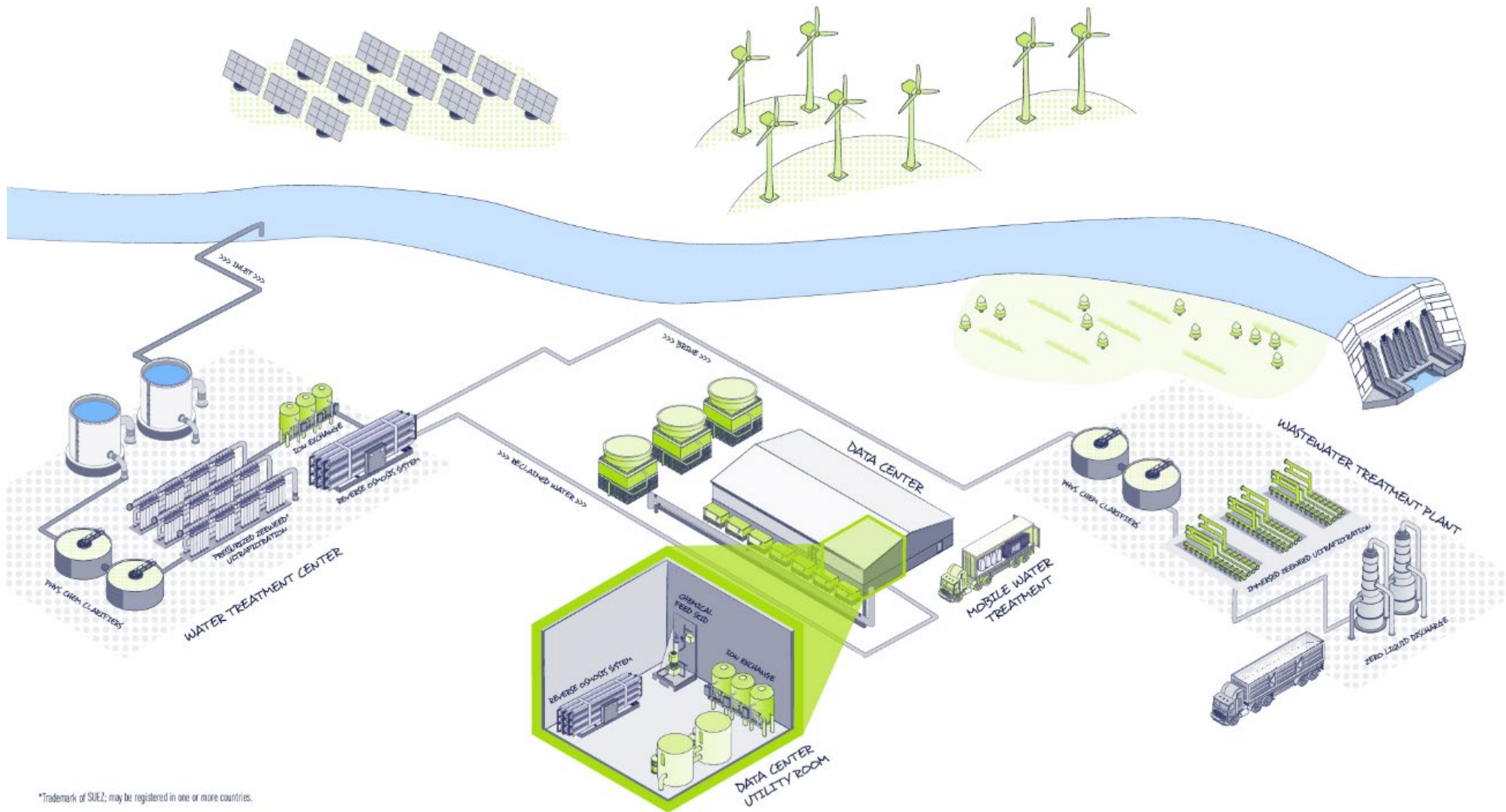


Indirect
Water
Usage

- Indirect water is the **primary contributor** to total data center water consumption, because it comes from water used in electricity generation
- In 2023, U.S. data centers consumed nearly **800 billion liters** of water indirectly through electricity generation, based on the regional electricity grid mix associated with their locations ⁽²⁾
- Indirect water intensity for data centers in 2023 for US is **4.52 L/kWh** ⁽²⁾

Source: Data Center Water Consumption in the US: Challenges, Trends, and Market Opportunities for 2025–2030 - Apstech Advisors | Your Strategic Partner in the Water Industry
(International Energy Agency datasets; 2024 United States Data Center Energy Usage Report)

Water Reuse: Conceptual Model





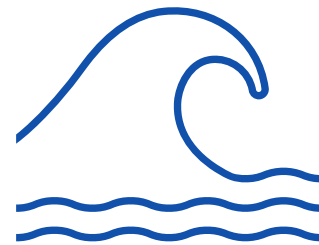
Source: EPA Tools & Resources Webinar: Alternative Water Sources to Augment Water Supplies, EPA
https://www.epa.gov/system/files/documents/2025-02/508-alternative-water-sources_tr-.pdf

EPA Water Reuse Action Plan 2.0: Federal Support for Reuse



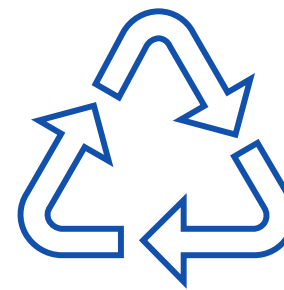
Data Centers + AI

- WRAP 2.0 supports water reuse for AI infrastructure and data-center cooling



Water Availability

- Reliable, affordable water for data centers



Water Reuse

- Recycled municipal wastewater for cooling systems
- Potential reuse of produced water



State Regulation

- Developing tools to help stakeholders navigate state regulatory requirements

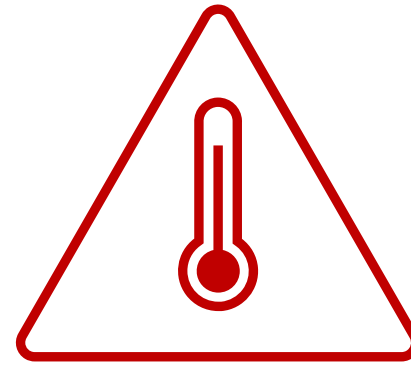
Water Quality: An Emerging Issue



Chemical + Biological

Dissolved solids, treatment chemicals, biocides and pathogens

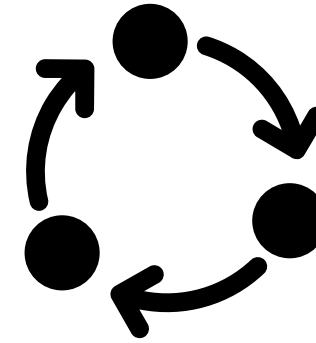
Cooling fluids and potential PFAS concerns



Thermal Discharges

Heated water can affect aquatic habitat and dissolved oxygen

Direct discharges may face temperature limits and thermal-plume review



Closed-Loop System Considerations

Reduced water withdrawals do not eliminate leaks, spills, blowdown or maintenance discharges

Discharge pathway and receiving-water conditions still matter



EPA Implementation

Chemical Regulation

- September 18, 2025 – announced that chemicals used in data center construction will take priority in safety reviews under TSCA.
- Advances EO 14179, “Removing Barriers to American Leadership in Artificial Intelligence (AI)”
- Applies to all submissions received on or after Sept. 29, 2025.

Air Regulation

- Dec. 11, 2025 – CAA resolution webpage for data center developers with CAA regulations, guidance, and technical tools, plus Data Centers Team to consult on permitting & compliance questions
- July 27, 2026 – Guidance clarifying that CAA Acid Rain Program excludes off-grid, "islanded" power plants.



EPA Issues Permitting Guidance to Further President Trump's Agenda Promoting Data Centers and Safeguarding Communities

July 27, 2026

Contact Information

EPA Press Office (press@epa.gov)

WASHINGTON – This month, U.S. Environmental Protection Agency (EPA) issued guidance clarifying that the Clean Air Act (CAA) Acid Rain Program (ARP) does not apply to power generation facilities that are not connected to a public electricity grid, commonly referred to as “islanded” power generation facilities. The guidance expands opportunities for companies to develop and operate islanded power generation facilities for data centers. This will give developers greater flexibility in where and how quickly they can build new facilities while helping to protect the environment and reducing burdens on communities’ electric grid.

Federal Legislative Approach

Decentralized Access to Technology Alternatives Act of 2026 (S. 3585)

- Amends the Federal Power Act by creating a new category of electric utility: the “consumer-regulated electric utility” (CREU)
- Exempts fully off-grid, self-powered data center energy systems from federal power regulations if they isolate from the public grid

Local Control Protection Act (H.R. 9262)

- Blocks data center corporations from suing local municipalities in federal court over zoning denials
- Mandates legally enforceable community benefit agreements for projects, including a road, water, and utility infrastructure mitigation, environmental and noise monitoring protocols.

Securing Reliable Power for Advanced Technologies Act (H.R. 5927)

- Proposes using the Defense Production Act to prioritize energy infrastructure for critical AI systems
- Requires concurrent federal permitting, single federal agency overseeing environmental review
- Compensation for regulatory impact if federal regulations impede a project

Clean Cloud Act (S. 1475)

- Amends Clean Air Act
- Empowers EPA to track and collect annual energy consumption from major data centers, electricity providers.

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Endangerment Finding Rescission



Endangerment Finding Recission

2009 Endangerment Finding

- Following *Massachusetts v. EPA*, EPA found that six GHGs endanger public health and welfare
- Found that motor vehicle emissions contribute to that danger, providing the CAA predicate for regulating vehicle GHG emissions
- Supported broader federal climate regulation architecture, including later regulation affecting stationary sources.

2026 Rescission

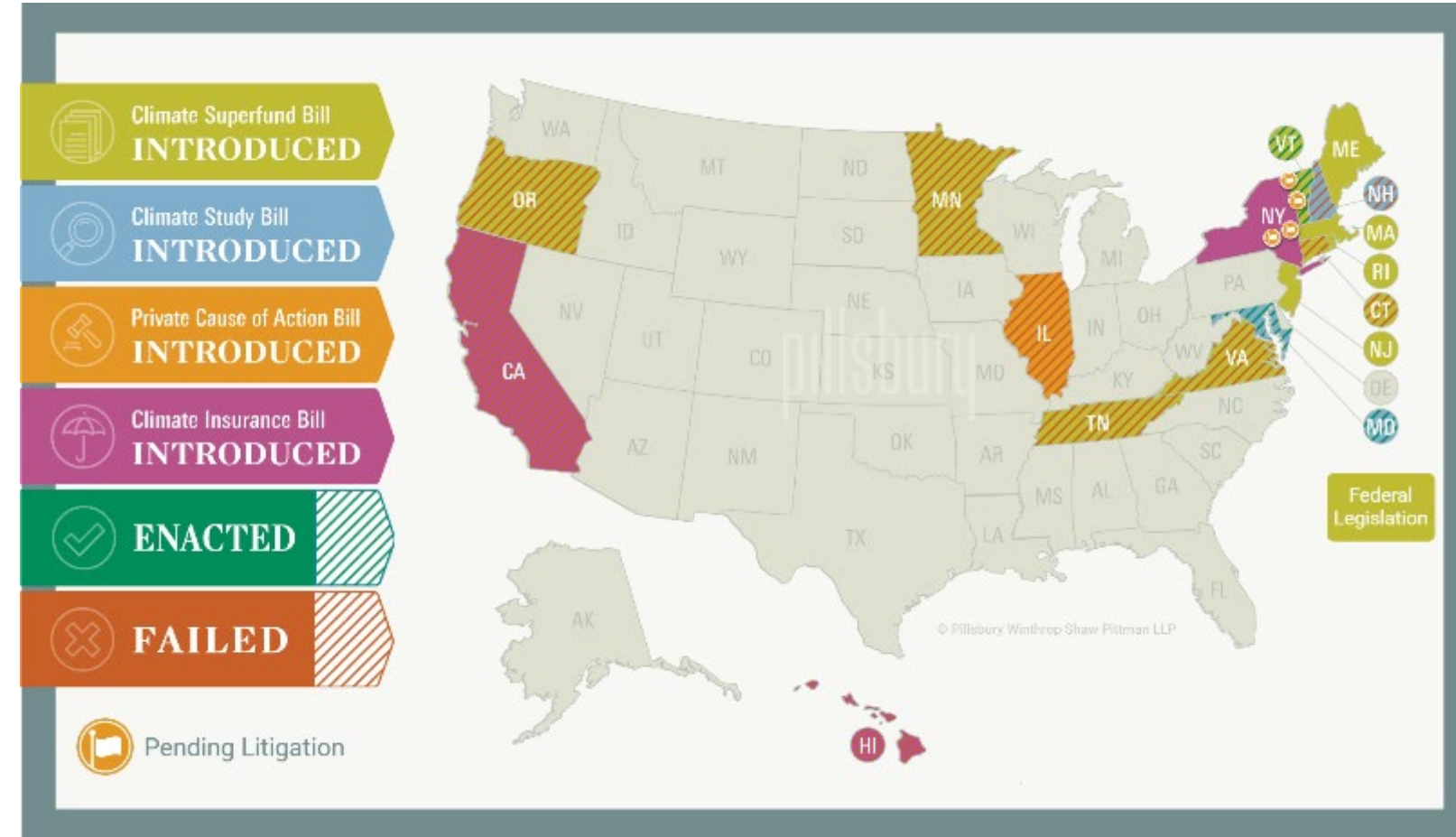
- EPA rescinded the endangerment finding, 91 Fed. Reg. 7686 (Feb. 2026)
- EPA's position: without the finding, the CAA does not authorize GHG EPA to regulate vehicle emissions
- EPA repealed the vehicle emission standards
- Broader impact on other GHG programs unfolding

Endangerment Finding Recission & Tort Litigation

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Background: Climate Litigation

- Since 2017 nearly 60 state/local governments have sued energy companies for damages allegedly resulting from climate change, typically making state law claims such as **nuisance, trespass, and violations of consumer protection statutes**
- Proposed/enacted state “**Climate Superfund**” **laws** impose strict liability on fossil fuel emitters for the alleged impacts of their emissions
 - Climate Superfund laws potentially require companies to contribute billions of dollars towards state-level climate adaptation projects



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Preclusion & Preemption Arguments

- Fossil fuel companies and the U.S. government argue that state law climate tort claims cannot proceed, arguing the claims:
 - Are **precluded** by the Constitution via:
 - The **Foreign Affairs Doctrine**
 - Principles **prohibiting extraterritorial regulation** and requiring equal sovereignty among states
 - Violate the **domestic and foreign Commerce Clauses**
 - Are **preempted** by the **Clean Air Act (CAA)**

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Impact of Endangerment Finding Recission on CAA Preemption Argument

- In its recent **rescission of the 2009 Endangerment Finding**, EPA concluded it **lacks statutory authority** under the Clean Air Act to **regulate greenhouse gas (GHG) emission standards** for new motor vehicles and engines
- That determination does not apply to stationary sources
- Regardless, to the extent EPA has stepped back from regulating GHGs, plaintiffs will likely argue that the **CAA no longer occupies the field** of interstate pollution regulation, meaning state law tort claims shouldn't be preempted

Impact of Endangerment Finding Recission on Preemption Arguments

- ***Suncor Energy (U.S.A.) Inc. v. County Commissioners of Boulder County***: upcoming U.S. Supreme Court case on whether state-law tort claims against energy companies are preempted based on constitutional principles and/or the CAA

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