

# OIL & GAS RULE LITIGATION

Internal deliberative pre-decisional - FOR USE BY 2024 PRESIDENT-ELECT TRANSITION TEAM MEMBERS ONLY

## ISSUE SUMMARY:

In March 2024, EPA finalized the Oil & Gas Rule to regulate emissions of greenhouse gases (in the form of limitations on methane) and volatile organic compounds (VOCs) from sources in the oil and natural gas sector. The rule directly regulates new sources and triggers an obligation on states to regulate existing sources. The final rule has been challenged by numerous parties in the D.C. Circuit. Certain petitioners filed motions to stay implementation of the rule pending judicial review, which the D.C. Circuit denied. Certain petitioners then filed applications to stay the rule with the Supreme Court, which that court denied in October 2024. As such, the rule remains in effect. Petitioners' opening briefs on the merits challenge in the D.C. Circuit are due on November 25, 2024.

## KEY POINTS:

On March 8, 2024, EPA published the Oil & Gas Rule under sections 111(b) and (d) of the Clean Air Act to regulate emissions of greenhouse gases (in the form of limitations on methane) and volatile organic compounds (VOCs) from sources in the oil and natural gas sector. 89 FR 16820. The final action consists of several independent rules, including: (1) review and revision of the new source performance standards for methane and VOC emissions under section 111(b); (2) promulgation of emission guidelines requiring states to regulate methane emissions from existing sources under section 111(d); (3) several related actions stemming from the June 30, 2021 joint resolution of Congress under the Congressional Review Act; and (4) a final protocol for the use of optical gas imaging in leak detection.

The Oil & Gas Rule was challenged by various state, industry, and NGO parties and consolidated as *Texas v. EPA*, No. 24-1054 (D.C. Cir.). In their non-binding statements of issues, the petitioners allege that the final rule exceeds EPA's legal authority and is arbitrary and capricious, including because:

- EPA did not comply with the Clean Air Act's requirements before regulating methane;
- EPA did not adequately consider costs or conduct a cost-benefit analysis;
- EPA unduly restricts states' discretion in regulating existing sources;
- The standards are technically infeasible, unduly burdensome, or impose requirements that fail to comply with the Clean Air Act; and
- The Super-Emitter Program is arbitrary and capricious and impermissible under the Clean Air Act.

Other states and NGOs have intervened in support of EPA.

## ONGOING/UPCOMING REVIEWS:

- Petitioners' opening briefs on the merits challenge in the D.C. Circuit are due on November 25, 2024.
- EPA's response brief is due on February 14, 2025.

## KEY EXTERNAL STAKEHOLDERS:

☒ Congress

☒ Industry

☒ States

☒ Tribes

☒ Media

☐ Other Federal Agency

☒ NGO

☐ Local Governments

☒ Public

#### MOVING FORWARD:

- EPA's defense of the case is proceeding.