

API's Vision for American Energy Leadership: Recommendations for the U.S. Environmental Protection Agency

The Environmental Protection Agency (EPA) serves as a key regulatory authority significantly impacting the oil and gas industry's ability to deliver affordable, reliable American energy. Through its oversight of fuels and vehicle emissions, as well as its enforcement of programs under the Clean Air Act, Toxic Substances Control Act, and Clean Water Act, the EPA oversees critical regulatory programs that influence air quality, hazardous discharges, and operational compliance. These regulations directly shape the industry's ability to innovate, maintain economic stability and meet evolving energy demands—all while prioritizing environmental protection and public health.

EPA's role extends to navigating newer challenges like methane regulation, Class VI well permitting for CO₂ storage, greenhouse gas reporting and permitting for hazardous discharges—issues that have direct consequences for the industry's cost structures, technological strategies and timelines.

API's recommendations on relevant regulations underscore the need for feasible, predictable and technology-neutral policies that prioritize innovation, economic opportunity and environmental progress. API has submitted comments on several regulations, which we encourage the transition team to review for further insights and recommendations.

Included below are the following priorities:

- Tailpipe Rule for Light-Duty and Medium-Duty Vehicles (LMDV) (*OAR-FVP*)
- Tailpipe Rule for Heavy-Duty Vehicles (*OAR-FVP*)
- California's Request for a Clean Air Act Waiver for the Advanced Clean Cars II Standards (*OAR-FVP*)
- California's Waiver Request for Advanced Clean Trucks (ACT) and Advanced Clean Fleets (ACF standards) (*OAR-FVP*)
- Renewable Fuel Standard (*OAR-FVP*)
- Removal of Gasoline Volatility Waiver (*OAR-FVP*)
- Waste Emissions Charge (WEC) (*OAR-MR*)
- "Methane Rule" (OOOO_b/ OOOO_c) (*OAR*)
- Greenhouse Gas Reporting Program (GHGRP) Subpart W (*OAR-MR*)
- "Power Plant Rule" (111b/111d) (*OAR*)
- Good Neighbor Rule (Interstate Transport) (*OAR*)
- Particulate Matter (PM) National Ambient Air Quality Standards (NAAQS) (*OAR*)
- Ozone NAAQS (*OAR*)
- Class VI Well Permitting & Primacy for CO₂ Injection (*OW*)
- Clean Water Act Section 401 – Water Quality Certification (WQC) Rule (*OW*)
- Wastewater Study Impacting Upstream Discharges (*OW*)
- Toxic Substances Control Act: Procedures for Chemical Risk Evaluation Under the Toxic Substances Control Act (TSCA) (*OCSP*)
- Risk Management Program (*OLEM*)
- Clean Water Act (CWA) Hazardous Substance Facility Response Plans (FRP) Final Rule (40CFR118) (*OEM*)

Office of Air and Radiation (OAR) – Fuels & Vehicles Policy

Key Issues:

- **Tailpipe Rule for Light-Duty and Medium-Duty Vehicles (LMDV)**

API Ask: Repeal the tailpipe rule, which imposes a predetermined technology outcome rather than a technology-neutral approach that considers diverse fuel and vehicle options. The rule is currently under litigation and the Administration should ask the court to vacate the rule and remand to the agency.

Context: The tailpipe rule – which applies to model years 2027-2032 – mandates that battery electric vehicles (BEVs) and plug-in hybrids (PHEVs) must account for 68% of new light- and medium-duty vehicle (LMDV) sales by 2032. The tailpipe rule, which exceeds EPA's statutory authority, is coordinated with the National Highway Traffic Safety Administration's (NHTSA) Corporate Average Fuel Economy (CAFE) standards and interlinked with California's Advanced Clean Car II (ACC II) rule. Smart policy should prioritize flexibility and innovation by maintaining a technology-neutral approach, employing life-cycle emissions assessments and ensuring realistic and achievable timelines.

- **Tailpipe Rule for Heavy-Duty Vehicles**

API Ask: Repeal the Heavy-Duty vehicle rule, which ignores fuel- and vehicle-based options and imposes economy-wide costs on consumers and American businesses. The rule is currently under litigation and the Administration should ask the court to vacate the rule and remand to the agency.

Context: The Heavy-Duty rule requires significant deployment of zero emission vehicles (ZEVs) beginning with model year 2027. By model year 2032, over 40% of work trucks ("vocational vehicles") and 25% of long-haul trucks (i.e. semi-trucks) would need to be ZEVs. EPA's focus on unproven ZEV solutions ignores fuel- and vehicle-based options that could better accomplish the goal of reducing transportation sector-related emission reductions from both new and in-use vehicles at a lower cost.

- **California's Request for a Clean Air Act Waiver for the Advanced Clean Cars II Standards**

API Ask: Deny or repeal the waiver request for ACC II, because California should not dictate vehicle options for the nation.

Context: California and the states following it need a waiver of preemption under section 209(b) of the Clean Air Act to enforce Advanced Clean Cars II (ACC II) vehicle efficiency standards for new light-duty vehicles. The ACC II program begins in Model Year (MY) 2026 and results in 100% zero emission vehicles by MY 2035. ACC II eliminates a consumers' ability to choose the vehicle powertrain to best meet their needs. BEV battery supply chains are controlled by a small number of countries – with China as a

key leader - and increased reliance on transportation electrification is likely to reduce transportation supply chain reliability.

- **California's waiver request for Advanced Clean Trucks (ACT) and Advanced Clean Fleets (ACF) standards**

API Ask: Repeal the ACT waiver of preemption and deny or repeal the ACF waiver.

Context: EPA granted California a federal waiver of preemption to enforce ACT on April 6, 2023 and California is currently seeking a waiver to enforce ACF. ACT and ACF are complementary policies that mandate the sale and purchase of zero emission vehicles (ZEVs) for medium-duty and heavy-duty applications. ACF allows only 100% new ZEV sales beginning in 2036 and fleet purchase requirements for ZEVs begin earlier. There is significant uncertainty regarding the availability of ZEV powertrains and ZEV trucks have practical limitations. The ACF program is impractical for medium- and heavy-duty fleets, puts increased reliance on Chinese-dominated critical minerals and jeopardizes American energy security. In addition to California, 10 states have adopted the ACT regulations.

- **Renewable Fuel Standard**

API Ask: Finalize the proposed partial waiver of 2024 cellulosic biofuel volume requirements and extension of 2024 compliance deadline.

Context: EPA proposed to partially waive the 2024 cellulosic biofuel volume requirement and revise the associated percentage standard under the RFS program due to a shortfall in cellulosic biofuel production. As a result, EPA also proposed to extend the RFS compliance reporting deadline for the 2024 compliance year. This action is needed to address a shortfall of cellulosic production in both 2023 and 2024.

- **Removal of Gasoline Volatility Waiver**

API Ask: Extend of the implementation date of the final rule, removing the 1-psi waiver, until April 28, 2026, to avoid a bifurcated fuels market in the Midwest.

Context: Additional time is required to manufacture and deliver the lower-RVP blendstock to the eight Midwestern states without causing a potential supply disruption to the adjacent states that do not have the same fuel requirements. There could be negative fuel supply impacts resulting from the removal of the 1-psi E10 waiver in the summer of 2025. Delaying the implementation date provides time for Congress to pass federal legislation. Further, EPA could grant emergency waivers starting in Feb. 2025 to facilitate the sale of E15 during the summer months.

Office of Air and Radiation (OAR) – Methane Regulation

Key Issues:

- **Waste Emissions Charge (WEC)**

API Ask: Congress should permanently repeal the WEC rule. If it does not, EPA should initiate reconsideration to make the rule workable and avoid punitive fees on American energy production.

Context: The WEC is a duplicative layer of regulatory red tape that imposes a punitive tax on energy producers and could raise costs for consumers. The final rule unnecessarily delays the availability of the regulatory compliance exemption, unjustifiably treats even minor deviations as full-fledged violations, and disincentivizes cost-effective emissions reductions. A CRA, while a first step, must be accompanied by a repeal of the enabling statute to fully eliminate the WEC and prevent unintended negative consequences of a subsequent rule.

- **“Methane Rule” (OOOOb/ OOOOc)**

API Ask: Finalize the current reconsideration rule consistent with industry recommendations; request voluntary remand of the case currently underway in the DC Circuit; and finalize an additional rule by June 2026 addressing the remaining reconsideration issues.

Context: Repeal or broad rollback of the Methane Rule would not eliminate EPA’s requirement to regulate methane in the oil and gas sector. Restarting the rule development process would create significant uncertainty regarding industry operations and investments. API petitioned EPA for reconsideration to revise several critical issues in the final Methane Rule. EPA granted reconsideration on two of these issues, but has not responded to the balance of priorities, including:

- 1) No identifiable emissions standard for covers and closed vent systems
- 2) Storage vessel modification triggers
- 3) Legally and practicably enforceable permit limits
- 4) Continuous flare pilot flame requirement
- 5) Allowance for limited VRU downtime
- 6) Exemptions for temporary equipment

- **Greenhouse Gas Reporting Program (GHGRP) Subpart W**

API Ask: Grant the items outlined in API’s reconsideration request of Greenhouse Gas Reporting Program Subpart W in order to accurately reflect emissions, provide transparency and reflect industry realities and evolving operating practices.

Context: GHGRP Subpart W requires owners/operators of petroleum and natural gas systems to report emissions and other data annually to EPA using mandated calculations and methodologies. The recent updates to Subpart W do not reflect Congressional intent for the program to accurately reflect actual emissions and instead overestimate emissions through inaccurate methodologies, double-counting and misalignment with the standards of other methane regulations. EPA has not yet responded to API’s petition for reconsideration to revise the flare, combustion, and other large release event reporting requirements.

Office of Air and Radiation (OAR) – Other Priorities

Key Issues:

- **“Power Plant Rule” (111b/111d)**

API Ask: Repeal the finalized New Source Performance Standards for GHG Emissions from New and Reconstructed Gas-fired Combustion Turbines, and – if proposed before Inauguration Day – repeal the Emissions Guidelines for existing gas-fired electric generators.

Context: In April 2024, EPA finalized a rule that would require a 90% reduction in the CO₂ emissions intensity of new gas plants by 2032, relying on carbon capture and sequestration (CCS) technology. The industry supports CCS, but there is insufficient infrastructure in the U.S. to comply with the rule under the timeline EPA has proposed. In an era of rapidly increasing demand for electricity, policies aimed at reducing emissions from the electricity sector should prioritize grid reliability and fully account for infrastructure constraints.

- **Good Neighbor Rule (Interstate Transport)**

API Ask: Repeal and replace the rule, which threatens energy infrastructure. The rule is currently under litigation and should be held in abeyance while the agency repeals and replaces the rule.

Context: EPA’s “Good Neighbor Plan” for the 2015 Ozone National Ambient Air Quality Standards finalized Federal Implementation Plan (FIP) requirements. The rule focuses on reducing emissions of nitrogen oxides (NO_x) from electric generating units (“EGUs”) as well as certain industrial units that are not used for the generation of electricity (“Non-EGUs”) for the first time. The rule will require significant new controls for reciprocating internal combustion engines (RICE) engines at compression facilities, undermining energy reliability by forcing operators to take pipeline engines — a vital technology to ensure natural gas can reach consumers — out of operations. EPA’s estimate of affected RICE units requiring control nearly tripled in the final rule, which threatens the U.S. natural gas grid and risks crippling delays to industrial supply chains.

- **Particulate Matter (PM) National Ambient Air Quality Standards (NAAQS)**

API Ask: Repeal the rule and revert to the normal five-year process.

Context: The Biden administration, out of cycle, reconsidered the Trump-era PM NAAQS rule promulgated in 2020 rather than proceed within the standard five-year review cycle. EPA arbitrarily lowered the primary annual standard from 12 to 9 micrograms per cubic meter (µg/m³). The final 9 µg/m³ standard, which is close to background PM levels, will be difficult to implement and significantly increase compliance costs. This could hinder investment and create challenges for maintaining supply chain efficiency while meeting unnecessarily strict requirements.

- **Ozone NAAQS**

API Ask: Ozone NAAQS review should meet statutory deadlines and be no more stringent than required to protect human health and/or the environment with an adequate margin of safety, as mandated in the CAA.

Context: The current primary ozone NAAQS was last revised in 2015, setting the limit at 70 parts per billion (ppb) over an eight-hour average. In 2020, the standard was reviewed during the Trump administration, which decided to retain the existing standard. The Biden administration deferred the reconsideration of the ozone standard initiating a

new review process, which is currently underway. Under the current standard, more than 120 counties are designated as nonattainment. If the standard is further lowered, additional regions across the country could also fall into nonattainment.

Office of Water (OW)

Key Issues:

- **Class VI Well Permitting & Primacy for CO₂ Injection**

API Ask: Process and approve pending Class VI permits that have met existing criteria as expeditiously as possible. Additionally, approve states' applications for Class VI primacy, particularly those pending from West Virginia and Texas.

Context: EPA permits Class VI wells and grants primacy to states that have applied for delegated authority for permitting of Class VI wells, provided they have appropriate resourcing and expertise. Long, uncertain timelines for receiving Class VI permits are a barrier to deployment of carbon storage and negatively impact project investment. Efficient, predictable permitting processes and delegation of Class VI primacy to states can accelerate commercializing CCS in the U.S. and realizing our global competitive advantage.

- **Clean Water Act Section 401 – Water Quality Certification (WQC) Rule**

API Ask: Repeal the 2023 CWA WQC rule and promulgate a rule that establishes a consistent and predictable process for both states and federal permittees.

Context: CWA Section 401 mandates any applicant seeking a federal permit for an activity that could potentially discharge into navigable waters to obtain a state WQC. The 2020 CWA Water Quality Certification Rule aligned state reviews with CWA intent and reduced delays by addressing issues including states' misuse to block and delay infrastructure projects. However, the 2023 CWA 401 Rule proposes broad, unauthorized changes, including excessive review scopes, expanded definitions of "water quality requirements" beyond CWA intent, and allowing states to impose conditions unrelated to water quality—reopening opportunities for misuse and delays.

- **Wastewater Study Impacting Upstream Discharges**

API Ask: Delay Subpart E study and ensure no overreach into a Subpart C Effluent Limitations Guidelines (ELG) study.

Context: EPA announced a study to evaluate wastewater discharges from onshore oil and gas extraction activities under Subpart E. The EPA regulates wastewater discharges from industrial categories through technology-based effluent guidelines. EPA plans to use the study results – including effluent characteristics, review of chemicals and additives involved (i.e. PFAS), water volumes discharged – to determine if new Subpart E regulations are needed.

Office of Chemical Safety and Pollution Prevention (OCSP)

- **Toxic Substances Control Act: Procedures for Chemical Risk Evaluation Under the Toxic Substances Control Act (TSCA)**

API Ask: Propose a replacement rule that reverts to EPA's approach to risk evaluations in the 2017 Rule. The 2024 rule is currently under litigation, and the Administration should request a voluntary remand.

Context: In 2024, the Biden administration reversed the Trump administration's interpretation of TSCA. The new rule adopts an "All Conditions of Use" approach, reviewing every potential use of a chemical, and applies unreasonable risk determinations to the entire chemical ("Whole Chemical Approach"). It also excludes the use of personal protective equipment (PPE) in evaluations. These changes represent the most conservative risk evaluation globally, forcing regulations down to the molecular level and leading to outright chemical bans.

Office of Land and Emergency Management (OLEM)

Key Issues:

- **Risk Management Program (RMP)**

API Ask: Repeal the Safer Communities Chemical Accident Prevention (SCCAP) rule that created new RMP requirements which impose unnecessary compliance burdens without improving safety. The rule is currently under litigation, and the Administration should request a voluntary remand.

Context: The previous RMP was effective in reducing chemical accidents. The SCCAP rule introduces costly and burdensome requirements without demonstrable safety benefits. SCCAP requirements related to Safer Technology Alternatives Analysis (STAA), third-party audits, and gap analyses for engineering practices (RAGAGEP) could disrupt established safety practices and create compliance challenges. Furthermore, the requirement for facilities to make hazard information publicly available poses security risks and duplicates existing disclosure obligations.

- **Clean Water Act (CWA) Hazardous Substance Facility Response Plans (FRP) Final Rule**

API Ask: Revise and reissue a proposed rule based on the feedback received since publication.

Context: The rule requires thousands of facilities to prepare Facility Response Plans (FRP) that far exceed the scope of what is necessary to protect against the risk of harm. It is unnecessarily complex and presents significant challenges for compliance, especially without substantial guidance. EPA should further simplify and clarify the rule. Because of the overly broad scope of these requirements, compliance efforts are likely to burden the regulated community and result in unnecessary costs, without advancing the objective of focusing emergency planning requirements on those facilities that have the greatest potential to cause substantial harm to human health and the environment. EPA should issue a simplified and clearer proposed rule to replace the current rule.