

# Presidential Election Implications on Methane and VOC Regulations for the Oil and Gas Industry

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A recent decision by the Supreme Court of the United States—to deny requests from states and industry groups to stay enforcement of the EPA’s rulemaking on methane and volatile organic compound (VOC) emissions—was deemed a success by the EPA in its efforts to curb emissions from the oil and gas industry.<sup>[1]</sup> While litigation challenging the EPA’s rulemaking continues before the U.S. Court of Appeals for the District of Columbia Circuit, actions taken by prior administrations lend insight into the future of the EPA’s rulemaking pending the results of the 2024 presidential election.

## U.S. EPA METHANE AND VOC COMPOUND RULE

The U.S. Environmental Protection Agency (EPA) published a Final Rule on March 8, 2024, which became effective on May 7, 2024, creating rigid new source performance standards under Clean Air Act (CAA) Section 111.<sup>[2]</sup> The Final Rule is intended to reduce methane and VOC emissions from new or modified oil and gas sources in the production, processing, transmission, and storage segments of the oil and gas industry, which the EPA has said is the “largest industrial source of methane pollution” in the country.

Twenty-four states, along with oil and gas companies and industry groups, challenged the Final Rule in the federal appeals court in Washington, D.C., and asked the court to halt EPA’s enforcement during litigation. The U.S. Court of Appeals for the District of Columbia Circuit unanimously denied the requests to stay enforcement of the Final Rule, which means the standards will remain in place while litigation continues. The states and industry associations then sought emergency relief from the Supreme Court of the United States (SCOTUS), arguing that the Final Rule violates the Clean Air Act and is an “authoritarian national command” from the EPA that usurps states’ authority to set performance standards for methane and VOCs for oil and gas facilities.

On October 4, 2024, SCOTUS rejected the request to halt implementation of the EPA’s Final Rule.<sup>[3]</sup> The Court rejected the emergency application without comment and with no noted dissents. Justice Brett Kavanaugh, joined by Justice Neil Gorsuch, wrote separately and noted the challengers do not need to begin their work to comply with the Final Rule until June 2025 and are unlikely to suffer irreparable harm before the U.S. Court of Appeals for the District of Columbia Circuit decides the case on its merits.<sup>[4]</sup> Notwithstanding SCOTUS’s decision, litigation against the EPA is ongoing before the D.C. Circuit.

## PRESIDENTIAL CANDIDATE POLICY OUTLOOK

The Obama administration was the first to implement direct regulations on methane emissions, in 2012 and 2016. The 2016 rulemaking advanced the EPA's first-ever set of methane standards, which were designed to cut methane emissions in half by 2025 by requiring the oil and gas industry to limit releases of methane and VOCs in the production, storage, and transport of fossil fuels.<sup>[5]</sup> These rulemakings were largely rescinded in 2020 under the Trump administration. Congress and the Biden administration then revoked many of the 2020 rulemakings by the Trump administration and restored the Obama-era regulations. The Biden administration has since issued additional rulemaking addressing methane and VOC emissions, as discussed above. If Donald J. Trump wins the 2024 presidential election, we can likely expect a rollback of the Biden and Obama administration rulemakings concerning methane and VOC emissions for the oil and gas industry. If Kamala Harris wins the 2024 presidential election, we expect the current rulemakings to remain in place pending the ongoing litigation before the D.C. Circuit.

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<sup>[1]</sup> Lindsey Whitehurst and Matthew Daly, *Supreme Court leaves in place two Biden environmental regulations*, Associated Press (Oct. 4, 2024), <https://apnews.com/article/supreme-court-environmental-regulation-methane-emissions-af42c5f91ce0c56f2f54b5ea01d3a247>.

<sup>[2]</sup> 89 Fed. Reg. 16820, <https://www.federalregister.gov/documents/2024/03/08/2024-00366/standards-of-performance-for-new-reconstructed-and-modified-sources-and-emissions-guidelines-for>.

<sup>[3]</sup> Supreme Court of the United States, No. 603 U.S., October 4, 2024, [https://www.supremecourt.gov/orders/courtorders/100424zr2\\_q86b.pdf](https://www.supremecourt.gov/orders/courtorders/100424zr2_q86b.pdf).

<sup>[4]</sup> Ilana Dutton, *Supreme Court refuses to interfere in EPA litigation, for now*, NPR (October 16, 2024), <https://www.npr.org/2024/10/16/g-s1-28602/supreme-court-epa>.

<sup>[5]</sup> Environmental Protection Agency, *EPA Releases First-Ever Standards to Cut Methane Emissions from the Oil and Gas Sector* (May 12, 2016), <https://www.epa.gov/archive/epa/newsreleases/epa-releases-first-ever-standards-cut-methane-emissions-oil-and-gas-sector.html>.

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