

Environmental Takeaways from GableGotwals' 6th Annual Energy Seminar

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This Alert highlights five key environmental takeaways from [GableGotwals' recent Sixth Annual Energy Market Drivers and Current Legal Issues Seminar](#), held in Tulsa, Oklahoma City, and Houston. The energy industry continues to navigate a shifting regulatory landscape influenced by presidential transitions, geopolitical dynamics, court rulings, market forces, technological advances, and evolving environmental regulations. As 2025 progresses, energy stakeholders should stay informed on regulatory developments, actively engage in rulemaking processes, and prioritize compliance to manage risk and support sound decision-making. GableGotwals' [Environmental and Natural Resources](#) team will continue to monitor developments and keep our clients informed of emerging regulatory risks and compliance strategies.

1. Clean Air Act – Quad O Marches On & EPA Reviews for Roll Backs

- **The “Quad O” Saga marches on.** Clean Air Act Section 111 New Source Performance Standards (“NSPS”) Subpart 0000b applicable to new, modified, and reconstructed facilities after December 6, 2022, went into effect on May 7, 2024 (some compliance dates extended for specific equipment). NSPS Subpart 0000c requires states to develop and submit state implementation plans showing how they will meet the emissions guidelines established in 0000c to EPA by March 2026. Once the SIPs are in place, states will have 36 months to achieve compliance. On March 12, 2025, EPA Administrator Zeldin announced that EPA will review and reconsider 0000b/c, however, changing the currently effective rules will require notice and comment rulemaking under the Administrative Procedure Act. Stakeholders should continue to focus on achieving and preparing for compliance with Quad Ob and Oc, respectively.
- **The Waste Emission Charge (“WEC”) is no more.** The rule aimed to implement a provision of the Inflation Reduction Act (IRA) of 2022 and would apply fees to facilities emitting over 25,000 metric tons of CO₂ equivalent per year as reported under EPA's Greenhouse Gas Reporting Program (Subpart W). On March 14, 2025, a joint Congressional resolution disapproved the 2024 Final Waste Emissions Charge Rule. The regulation is no longer in effect and facilities will not be required to submit their WEC filings by September 2025.
- **Opportunities to roll back regulations.** On March 12, 2025, EPA announced 31 actions aimed at reviewing and potentially rolling back numerous environmental regulations, including a number of air regulations, e.g., multiple National Emission Standards for Hazardous Air Pollutants (“NESHAPs”), Regional Haze Program Implementation, the 2009 Endangerment Finding

Regarding Greenhouse Gases. Considering recent high-profile Supreme Court rulings that narrow discretion of administrative agencies and require agencies to provide a reasoned response to relevant public comments (e.g., *Loper Bright v. Raimondo*, *Ohio v. EPA*), and also considering EPA has announced a number of forthcoming reviews of current regulations for possible rollback, be prepared to comment during notice and comment rulemaking.

2. Clean Water Act – Waters of the United States (“WOTUS”)

- **Expect a recalibration in federal jurisdiction over wetlands under the Clean Water Act (“CWA”).** On March 12, 2025, EPA and the Army Corps of Engineers (“Corps”) issued a joint memorandum providing guidance to field personnel on implementing the continuous surface connection standard for adjacent wetlands under the Clean Water Act (“CWA”). The guidance aligns regulatory practice with the U.S. Supreme Court’s 2023 ruling in *Sackett v. EPA*, which significantly narrowed the scope of federally protected wetlands by requiring a continuous surface connection to navigable waters. In conjunction with the memo, EPA and Corps announced a series of listening sessions and a 30-day recommendations docket to solicit comments on key aspects of the definition of “water of the United States” and those comments were to be received on or before April 23, 2025.
- **Implications of a narrower concept of adjacent wetlands.** Project developers and those owning real property may be able to develop areas where previously it was too costly due to WOTUS designation and associated permitting and environmental review.
- **Unintended Consequences of Less Federal Jurisdiction.** State laws (e.g., NM SB 21/22) are stepping in to fill federal gaps, often with stricter requirements.

3. Groundwater Contamination

- **Increasing investigations around groundwater contamination in oil and gas areas.** In the past several years, there has been a marked increase in investigations and enforcement related to groundwater contamination issues—both in Texas and Oklahoma.
- **Investigations usually delineate an area of concern and look for nearby O&G integrity issues and saltwater disposal.** A large number of these issues are attributable to legacy issues with O&G infrastructure, such as unplugged, mud-plugged or otherwise improperly abandoned wells, saltwater disposal injection well issues, and issues from waste pits.
- **Avoid getting snared in uncertain and expensive investigations.** For a lack of responsible parties, agencies will often look at the closest solvent operators and force into a long and expensive investigation. Be prepared to utilize expert consultants and good science to refute unsupported agency claims. Operators should evaluate assets to understand where risk exposure is, including during due diligence in acquisition and divestiture of assets. Consider any known

contamination or releases and the potential impact on nearby or downgradient water sources, either above or below ground.

- **Consider leaning into agency cleanup jurisdiction.** If contamination is unequivocal and attributable to you, consider working with the applicable regulatory agency to reduce liability and prevent further third-party claims.

4. PFAS Regulation and Liability

- **PFAS regs are here.** Several PFAS are now regulated contaminants under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA” or “Superfund”) and the Safe Drinking Water Act (“SDWA”).
- **PFAS are glaringly absent from the Trump Administration and EPA deregulatory agenda.** The growth of PFAS regulation at both the federal and state levels will remain and likely only increase in the coming years.
- **PFAS in the oil patch.** Due to the surfactant and other durable qualities of many PFAS, they may be present in various drilling and completions fluids. Some states are focused on this issue. For example, Colorado House bill 22-1348, enacted in 2022 and effective July 2023, requires manufacturers and operators involved in downhole operations to certify that their chemical products contain no intentionally added PFAS.
- **Heightened environmental due diligence for real property assets.** Due to the regulatory status of certain PFAS, Phase I Environmental Site Assessments (“Phase Is”) conducted for environmental due diligence should consider PFAS as a recognized environmental condition (“REC”) and manage those risks accordingly.

5. Working with Consultants – Preserve Attorney-Client Privilege

- **Good consultants are critical to evaluating and addressing environmental issues but use precautions to protect data and information.** Often outside consultants are brought in to handle complex litigation or regulatory matters, however, mismanagement of communications results in a blown Attorney-Client Privilege (ACP).
- **Terms of engagement and communication protocols are important.** To protect ACP, outside counsel must be the main communications hub, AND the consultant must be hired to assist counsel in providing legal advice—not business advice.
- **Careful with emails and cc’ing too many people.** Label all privileged communications as such, avoid lengthy email chains with too many people cc’d, and address communications to one point of contact. When in doubt, copy counsel.

As highlighted above, environmental regulation remains dynamic across the energy industry. From evolving Clean Air Act and Clean Water Act standards to emerging PFAS liabilities and groundwater enforcement actions, regulatory risks continue to shift. Stakeholders should closely monitor changes at the federal and state levels, engage proactively in rulemakings,

and anticipate enforcement trends – particularly as the EPA and other agencies reconsider or withdraw prior rules.

GableGotwals' [Environmental and Natural Resources](#) team remains committed to helping clients navigate these challenges with timely insights and actionable strategies to support compliance and operational continuity. If you have any questions, please contact [Tim Sowecke](#) or [Tyler Self](#).



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