

**A&WMA**  
**28th Annual Joint Florida/Alabama**  
**Conference**  
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**Air Quality Litigation Update**

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# Robert A. Manning

**A native Floridian, Robert Manning has been practicing environmental law with Hopping Green & Sams since 1994. Robert's practice focuses primarily on air quality-related issues, including policy development, legislation, rulemaking, permitting and enforcement. Robert is past Chair of the Florida Bar's Environmental and Land Use law Section and the Florida Section of the A&WMA.**



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# Agenda

- **CO<sub>2</sub> Rules**
- **SSM SIP Call**
- **MATS**
- **CSAPR Update**
- **Ozone NAAQS**
- **Speculation**

# CO<sub>2</sub> Rules

- **Clean Power Plan = 111(d)**
  - **West Virginia v. EPA:**
    - Rule is stayed per Supreme Court
    - April 28 Order granting 60-day abeyance (until June 29)
    - Briefing on May 15 re continuing abeyance or remand to EPA
      - Will Stay continue?
      - NGOs want decision on merits

# CO<sub>2</sub> Rules

- **NSPS for EGUs = 111(b)**
  - **North Dakota v. EPA**
    - March 30 Order continuing April 17 Oral Argument
    - April 28 Order holding case in abeyance for 60 days

# SSM SIP Call

- **Walter Coke v. EPA**

- April 24 Order continuing May 8 oral argument, and holding case in abeyance pending EPA's review of SIP Call and policy

# MATS

- **Reconsideration regarding Startup/Shutdown**
  - **UARG v. EPA**
    - Voluntarily dismissed on Oct. 31, 2016
  
- **Technical Corrections**
  - **ARIPPA v. EPA**
    - March 27 Order holding case in abeyance pending resolution of boiler MACT Cert. Petition
  
- **Supplemental Cost Finding**
  - **Murray Energy v. EPA**
    - April 27 Order continuing May 18 oral argument, and holding case in abeyance

# CSAPR Update

- **Wisconsin v. EPA**
  - May 15 briefing order
    - August 21 – Opening briefs
    - Feb 7 – final briefs



# Ozone NAAQS

- **Murray Energy v. EPA**
  - April 11 Order continuing April 19 oral argument, and holding case in abeyance

# Speculation

- **Possible increase in citizen suits and nuisance claims**
- **Continued litigation when EPA finalizes redirection of policies/rules**
- **Blueprint for future administrations**