

EPA Initiates Reviews of Three Clean Air Act Regulations, Following President Trump’s “Promoting Energy Independence and Economic Growth” Executive Order

Article By:

James M. Auslander

David M. Friedland

A week after President Trump signed an [Executive Order](#) directing agency review of various energy-related regulations (see March 28, 2017, B&D alert [here](#)), the Environmental Protection Agency (EPA) announced that it is initiating review of three such regulations under Clean Air Act. The announcements were published on the Federal Register on April 4, 2017.

The three regulations to be reviewed by EPA are the [Clean Power Plan limiting carbon dioxide emissions from existing utilities](#); the Clean Air Act section 111(b) new source performance standard (NSPS) limiting carbon dioxide emissions from new electric generating units (the companion “[New Source Rule](#)” to the Clean Power Plan); and [the 111\(b\) NSPS](#) limiting methane and VOC emissions from new oil and gas operations. President Trump in his Executive Order specifically directed EPA to review these three regulations and, if appropriate, “suspend, revise, or rescind” them.

In all three announcements, EPA stated that it has “well-grounded” legal authority to revisit past regulations in the context of administrative change and policy reevaluation. EPA also indicated that any potential suspension, revision, or rescission of the subject regulations would be implemented through a rulemaking process that is transparent, follows the appropriate procedures, employs sound science, and is consistent with the law and the Executive Order.

EPA’s announcements show that the Agency’s leadership intends to follow the President’s directive. That regulatory path forward is complicated by ongoing litigation on the existing rules, particularly on the Clean Power Plan, and subsequent judicial developments may constrain EPA’s options. Stakeholders should closely monitor EPA’s progress in reviewing these rules and participate in any future rulemakings to build a robust administrative record.

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