

President Trump's Climate Change Executive Order: Legal Impacts and Business Implications

April 5, 2017

Executive Summary

On March 28, 2017, President Trump signed a sweeping executive order (the "Order") aimed at rolling back signature portions of the Obama administration's climate change agenda. Framed as a series of measures to bolster American energy independence, economic growth and job creation, the Order takes steps to undo nearly two dozen Obama-era regulations, executive actions, policies and guidance documents. Some of the most prominent regulations affected include those governing greenhouse gas ("GHG") emissions from the power sector (most notably, the Clean Power Plan ("CPP") and the new source performance standards for new, modified and reconstructed fossil-fuel fired power plants ("Power Plant NSPS")), as well as methane and other air emissions from oil and natural gas operations, including hydraulic fracturing.¹

The Order is also notable for not addressing, or even mentioning, the United States' signatory status to the international Paris Agreement on climate change, or the U.S. Environmental Protection Agency's ("EPA") 2009 GHG Endangerment Finding ("Endangerment Finding"), upon which EPA's ability to regulate GHG emissions under the Clean Air Act ("CAA") is based.

The Order is President Trump's most significant step to date toward fulfilling his campaign promises to undo Obama administration environmental and energy policies. However, as we described in our previous [memo](#) on the Trump transition, the Trump administration's ability to implement the actions outlined in the Order depends on the nature of the regulation or the policy being targeted:

- final regulations can be rescinded or revised generally only through new rulemaking;² and
- executive orders, policies and guidance documents can be withdrawn or revised quickly or immediately.

The process of rescinding or revising regulations is lengthy, complex, and often the subject of vigorous legal challenges. The legal backdrop and factual record upon which Obama-era climate change regulations are based are likely to further complicate the Trump administration's ability to rescind or revise them because of the standard of review used by courts in reviewing challenged changes to regulations. In addition, the limited resources the Trump administration has promised to allocate to EPA and other executive agencies under its current budget proposals, as well as delays in filling agency staff positions necessary to drive the new rulemaking process forward, while intended to reduce Obama-era regulation, is ironically likely to slow the process further. The end result of this process is difficult to predict, but for

¹ An earlier President Trump executive order called for a review of another controversial Obama administration environmental regulation, the Waters of the United States Rule (the "WOTUS Rule"), as discussed in a previous [memo](#).

² As we noted in our [memo](#) on the Trump transition, final regulations can also be rescinded by Congressional resolution under the Congressional Review Act. This tool has already been used to undo several Obama administration regulations, including the Stream Protection Rule, also discussed in a previous [memo](#).

most of the regulations targeted by the Order, revising them to be more industry-friendly will likely be easier for EPA to justify and defend than rescinding them outright.

However the rulemaking process plays out, the status quo is likely to continue for quite some time with respect to regulations targeted by the Order. As a practical matter, this means that businesses will most likely have to continue to comply in the short term with regulations targeted by the Order that are currently in effect. Those targeted regulations that are stayed or otherwise on hold as a result of ongoing legal challenges – such as the CPP – are likely to remain so, absent further litigation developments. In contrast, the impact of the Order on Obama administration executive actions, policies and guidance documents will be immediate.

This memorandum summarizes the key elements of the Order, analyzes the pathways for its implementation and hurdles it is likely to face, and describes the legal and business ramifications that are likely to result. Further detail as to the regulations, executive actions, policies and guidance documents affected by the Order is set forth in the [attached table](#).

Overview of the Order and Key Considerations for Implementation

The Order is extensive in scope, and implements or directs a wide variety of actions across executive agencies to fulfill the Order's goals of energy independence, economic growth and job creation. These actions fall into two categories: (1) directives to executive agencies to review and suspend, revise or rescind, as appropriate, existing regulations through administrative rulemaking, and (2) executive actions that can be implemented summarily.

Key Obama-Era Regulations Targeted by the Order

The Order directs the EPA Administrator and the Secretary of the Department of the Interior to review and, as appropriate, “suspend, revise or rescind” a number of agency regulations, including the following:

- *The CPP*. The CPP was a 2015 EPA regulation that sets limits on GHG emissions from existing coal- and natural gas-fired power plants. Implementation of the CPP represented a critical component for achieving the ambitious GHG emission reduction goals outlined in President Obama's overarching Climate Action Plan. The CPP has never taken effect. A legal challenge to the CPP was brought in the D.C. Circuit Court of Appeals after it was issued. Soon thereafter, the U.S. Supreme Court issued a stay against the CPP, which will remain in effect until the Supreme Court rules on the CPP or decides not to review it. The CPP remains under consideration by the D.C. Circuit Court of Appeals.
- *Power Plant NSPS*. On the same day that it finalized the CPP, EPA finalized a separate regulation establishing the New Source Performance Standards, or NSPS, designed to reduce GHG emissions from new, modified, and reconstructed coal- and natural gas-fired power plants. These standards require, among other things, that new coal-fired power plants implement carbon capture and sequestration, a technology that so far has had limited commercial implementation, and that new natural gas-fired power plants implement natural gas combined cycle technology. While this regulation is the subject of litigation, it has not been stayed.
- *New Source Performance Standards for the Oil and Natural Gas Sector (“Oil and Gas NSPS”)*. In June 2016, EPA finalized its regulation establishing NSPS designed to limit methane (a powerful GHG) and volatile organic compound emissions from new sources in the oil and natural gas

production sector, with a focus on hydraulic fracturing operations.³ The regulation amends and expands on a 2012 regulation establishing methane monitoring and reduction requirements. While the regulation is currently in effect, it is subject to a pending legal challenge by certain industries and states.

- *Methane and Waste Prevention Rule (“BLM Methane Rule”).* In November 2016, the Bureau of Land Management (“BLM”), which is a part of the Department of the Interior, finalized its regulation addressing the venting, flaring and leaking of natural gas at oil and natural gas wells on federal and Indian lands. The regulation requires oil and natural gas producers to use new technologies and monitoring and emissions controls to cut natural gas flaring at oil wells and reduce other methane losses. This regulation was expected to contribute significantly to President Obama’s GHG emissions reduction goals. The BLM Methane Rule survived a legal effort by certain states and industries to block it and took effect on January 17, 2017. However, challenges to the regulation are currently pending. In addition, under the Congressional Review Act (“CRA”), the House of Representatives has passed a resolution to rescind this regulation. For additional information on the CRA, see our [memo](#) on the Trump transition.
- *Hydraulic Fracturing on Federal and Indian Lands (“BLM Fracking Rule”).* These regulations, finalized by BLM in March 2015, imposed new requirements for wellbore integrity, water quality and public disclosure of fracking operations and chemical use on federal and Indian lands. The regulations were challenged and in June 2016, the U.S. District Court for the District of Wyoming invalidated them, finding that BLM lacked statutory authority to regulate fracking. BLM appealed the decision to the Court of Appeals for the Tenth Circuit, where it is currently pending.

The Order directs the U.S. Attorney General to take appropriate action in any pending litigation relating to these rules, including seeking to stay or delay further proceedings. Already, the Department of Justice (“DOJ”) has made motions in lawsuits involving legal challenges to the CPP, the Power Plant NSPS and the BLM Fracking Rule to hold these cases in abeyance pending further rulemaking in accordance with the Order. These motions are likely to be challenged by various interest and industry groups and states.

Legal Considerations for Rescinding or Revising the Targeted Regulations

Since agency regulations cannot be rescinded or revised by executive order, any rescission of, or revisions to, existing regulations must go through the same “notice-and-comment” rulemaking process applicable to other federal administrative rulemaking. This will likely require a significant amount of time, and could be delayed or blocked by litigation. From start to finish, the notice-and-comment rulemaking process can take months or even years. The CPP rulemaking, for example, began in the summer of 2013 – two years before it was issued in final form. EPA received over 4 million comments on the proposed CPP rule during the public comment period to review and address. The Trump administration’s ability to navigate this process and successfully defend its final proposals may be further hampered by limited resources and expertise resulting from the steep budget cuts planned in its own proposed budget and delays in filling necessary staff positions at EPA and other agencies.

In addition, under the Administrative Procedure Act (“APA”), final agency regulations are subject to judicial review. Parties claiming they were harmed by a particular regulation can challenge it on the basis that the regulation is unconstitutional, exceeds the agency’s statutory authority, was not promulgated in compliance with the notice-and-comment rulemaking process required by the APA or other relevant laws,

³ The Obama administration also planned to develop a companion set of standards to limit GHG emissions, primarily methane, from existing oil and natural gas operations, and had issued information requests in 2016 to industry participants designed to gather facts in support of these efforts. On March 2, 2017, EPA withdrew these requests signaling a halt to this regulatory initiative.

or that the regulation is arbitrary and capricious or represents an abuse of the agency's discretion. Courts generally defer to an agency's interpretation of statutes it is charged with administering under a doctrine established by the Supreme Court in *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.* known as "*Chevron* deference."⁴ However, under subsequent Supreme Court precedent, in order to rescind or revise existing regulations, the promulgating agency must explain in detail and justify why the new regulation departs from the agency's prior legal interpretations and factual findings. Failure to provide this justification may lead a reviewing court to find that the new regulation is an arbitrary and capricious use of agency power, and on its face invalid, *Chevron* deference notwithstanding. Interest and industry groups and states that support strict environmental regulation are almost certain to challenge any new final regulations promulgated to rescind or revise Obama-era climate change regulations, and are likely to claim, among other things, that the new regulations fail to meet the criteria to survive judicial review under the APA.

In addition to the procedural requirements EPA must follow, any revisions to the three regulations promulgated pursuant to Section 111 of the CAA – the CPP, the Power Plant NSPS and the Oil and Gas NSPS – must also account for the legal backdrop from which these regulations originally emerged. All three regulations trace their origins to the 2007 case, *Massachusetts v. EPA*, in which the U.S. Supreme Court held that EPA has authority to regulate greenhouse gases as "air pollutants" under the CAA. This ruling set off a cascade of rulemaking activity relating to GHG emissions, beginning with EPA's issuance of its Endangerment Finding in 2009, as discussed below. Given that, based on current information, EPA will apparently let the Endangerment Finding stand, the finding will continue to loom over future EPA rulemaking relating to GHG emissions under the CAA. Any attempts by EPA to weaken the CPP, the Power Plant NSPS or the Oil and Gas NSPS will have to be justified in light of its conclusion that GHG emissions constitute pollution posing a danger to public health and welfare. While *Chevron* deference will continue to apply, unless changed, to EPA rulemaking, EPA's discretion would be constrained by the Endangerment Finding.

Key Obama-Era Executive Actions Targeted by the Order

The Order also directs a number of additional actions taking immediate effect, including withdrawing Obama administration executive actions, policies and guidance documents or directing particular executive bodies to do so. These include the following:

- *Reverse the Moratorium on Federal Coal Mining Leases.* The Order directs the Secretary of the Interior ("Interior Secretary") to take all steps necessary to amend or withdraw the moratorium on the granting of coal mining leases on federal lands. The moratorium was issued in January 2016 as part of a larger "Programmatic Environmental Impact Statement" ("PEIS") review of the federal coal program to analyze leasing policies, environmental and public health impacts of federal coal production, and tax policies, and propose related reforms. On March 29, 2017, Interior Secretary Ryan Zinke issued orders ending the moratorium, terminating PEIS actions and establishing a committee to examine fees and royalties companies pay to produce oil, natural gas, coal and renewables on federal land.
- *Review Estimates of the Social Cost of Carbon, Nitrous Oxide and Methane.* The Order disbands the Interagency Working Group on Social Cost of Greenhouse Gases ("IWG") and withdraws a

⁴ Of note, President Trump's nominee to the U.S. Supreme Court, Judge Neil Gorsuch, has questioned whether the discretion that *Chevron* deference grants to executive agencies is constitutional in his published judicial opinions and at his confirmation hearing. If elevated to the Supreme Court, Judge Gorsuch may attempt to weaken or reverse *Chevron* deference. This change could make it more difficult for EPA under the Trump administration to justify its decisions to rescind or revise existing environmental regulations, but could also curtail EPA's ability to develop new, more expansive rules on environmental protection under future administrations.

series of six technical support documents issued by the IWG establishing guidelines for executive agencies for quantifying the effect of projected changes in GHG emissions when conducting cost-benefit analyses of the impact of regulatory actions. The Order directs executive agencies to instead rely on guidance contained in the OMB Circular A-4, issued in September 2003, when conducting such analyses.

- *Review Agency Actions Affecting Domestic Energy Sources.* In addition to the regulations and policies specifically targeted in the Order, the Order directs the heads of all agencies to generally review existing regulations, orders, guidance documents, policies and other agency actions that potentially burden the development or use of domestic energy sources and to submit reports outlining plans to alleviate these burdens. On March 29, 2017, the Interior Secretary issued an order commencing the Department of the Interior's review of such actions.
- *Rescind Energy- and Climate-Related Presidential and Regulatory Actions.* The Order revokes several executive orders, presidential memoranda and executive office reports from the Obama administration that served as the basis for many of the substantive climate change-related regulations and policies targeted by the Order, including reports outlining President Obama's Climate Action Plan, and final guidance encouraging federal agencies to consider effects of proposed activity on climate change in environmental reviews under the National Environmental Policy Act.

Several of these executive actions outlined in the Order are likely to take effect quickly. In fact, the reversal of the coal leasing moratorium has already begun, as discussed above. Because these policies were not implemented through the agency rulemaking process, and therefore are not deemed formal regulations under the APA, they may be revised or rescinded at the President's direction.

Notable Omissions: Paris Agreement and GHG Endangerment Finding

The Order is notable for its silence on the following issues:

- *The Paris Agreement.* The Order does not announce an intent to withdraw the United States from the 2015 Paris Agreement or other international climate change arrangements, an action President Trump had pledged to take during the presidential campaign. The Order's silence on the Paris Agreement signals President Trump's intent, at least for the time being, for the United States to maintain its commitment to the Paris Agreement's landmark GHG reduction goals, although on March 30, 2017, White House press secretary, Sean Spicer, indicated that the Trump administration plans to finalize its stance on the Paris Agreement by May 2017. Even if the United States ultimately remains a signatory, the practical effects of actions called for in the Order, particularly the reversal of the CPP, are at apparent cross-purposes with achieving the United States' emissions reduction pledges under the Paris Agreement.
- *Endangerment Finding.* The Order does not direct EPA to reconsider its 2009 finding that a mix of six greenhouse gases, including carbon dioxide and methane, constitutes "air pollution" under the CAA that threatens public health and welfare. The Endangerment Finding is the bedrock of EPA's climate change regulatory strategy, since by identifying GHGs as pollutants under the CAA, EPA is able to, and, in some cases, compelled to, regulate their production. Reversing the Endangerment Finding could preclude EPA from regulating GHG emissions under the CAA although the administrative and judicial barriers to such a reversal are significant.

Next Steps For Regulations Targeted by the Order

Next steps that EPA and Department of the Interior appear likely to take are as follows:

Address Ongoing Litigation

For those regulations that are currently the subject of legal challenges, including the CPP, the Power Plant NSPS, the Oil and Gas NSPS, the BLM Methane Rule, and the BLM Fracking Rule, DOJ has asked or likely will ask the courts hearing these challenges to hold them in abeyance while EPA and the Department of the Interior undertake the review and rulemaking process directed by the Order. Parties opposing these challenges are likely to request that the court allow the cases to proceed.

While courts have agreed to hold cases in abeyance in comparable situations in the past, it is unclear how the relevant courts will rule on these requests.⁵ If these requests are granted, for those regulations that are currently on hold (such as the CPP) or were previously found to be invalid (such as the BLM Fracking Rule), the grant of a request to hold the litigation in abeyance would prevent those regulations from going into effect.

Rescind the Regulations

The Trump administration may seek to rescind the regulations targeted by the Order altogether. However, at least with respect to certain of the regulations, doing so may present difficult legal challenges.

- *Power Plant NSPS and Oil and Gas NSPS.* Full rescission of, without replacement for, these regulations would leave GHG emissions from new, modified and reconstructed power plants and new oil and natural gas operations unregulated, which may be a challenge to defend in light of the Endangerment Finding.
- *CPP.* As with the two NSPS regulations, the Endangerment Finding similarly affects EPA's ability to rescind the CPP rather than revise it. However, as some industry groups and states challenging the CPP have argued, the statutory basis of the CPP is subject to question, and therefore may provide EPA with the basis to rescind the regulation. Assuming litigation of the CPP is held in abeyance, EPA may assert in subsequent rulemaking that, notwithstanding the Endangerment Finding, regulating GHG emissions from existing power plants is precluded by Section 112 of the CAA, as opponents of the CPP have argued. This position is supported by a version of the statutory text passed by the House of Representatives but, due to a legislative glitch, was not reconciled with the version of the provision passed by the Senate, which does not support this position. In that case, EPA could determine that the CPP is without legal basis and rescind it entirely, although courts may question EPA's "about face" (as EPA previously interpreted the CAA in precisely the opposite manner in promulgating the CPP) or simply reject this reading of the CAA as unreasonable.
- *BLM Methane Rule and BLM Fracking Rule.* These regulations were promulgated by the BLM under statutory authority granted to the Department of the Interior, and not under the CAA. One court has already found that the BLM Fracking Rule exceeded BLM's authority, and similar claims have been made about the BLM Methane Rule, although a district court has thus far refused to

⁵ Notably, on April 3, 2017, the Supreme Court denied a motion filed by the federal government to hold in abeyance further proceedings in a case relating to the WOTUS Rule even though it is subject to a stay and an ongoing rulemaking to revise or rescind the rule.

enjoin it. BLM would appear to have wider discretion to rescind these regulations as compared to the CAA regulations, since they are not mandated by the Endangerment Finding.

Revise the Regulations

A more defensible approach for several of these regulations, especially those mandated by the Endangerment Finding, would be to revise and reissue more industry-friendly versions. The Power Plant NSPS, for instance, calls for installation of carbon capture and sequestration technology at new coal-fired power plants, but such technology has not yet been commercially implemented. EPA may issue a revised Power Plant NSPS that removes this requirement, opting instead for mandates that result in more modest GHG emissions reductions.

EPA might also issue a revised version of the CPP that discards the more onerous and controversial elements of the original regulation. Currently, the CPP calls for a 32% reduction in GHG emissions from power plants as compared to 2005 levels. The CPP accomplishes this by not only forcing improvements in the efficiency of coal-fired power plants, but by essentially mandating that a greater share of energy be generated by natural gas and renewable energy sources. This “fuel switching” prong has proven controversial because it constituted EPA regulation of behavior that takes place “beyond the fence line” of the individual power plants, by compelling them (or states) to create renewable energy capacity. A revised version of the CPP might eliminate the “beyond the fence line” aspect of the regulation, resulting in less ambitious GHG reduction goals.

Business Implications

The immediate response from the business and legal community to the Order has been varied. Some would characterize the Order as simply a fulfillment of campaign promises that will have little effect in the face of market forces that may already be pushing towards natural gas or other forms of energy other than coal. Others, including special interest groups, may say this would have a profound effect on the environment. In any event, some key implications of the Order for the business community are set forth below.

1. Ensure Compliance in the Near Term. The ultimate impact of the Order will take years to sort out. The most significant elements of the Obama administration agenda targeted by the Order are complex regulations such as the CPP, which will most likely take a long time to rescind or revise. In the near term, a key issue will be whether courts decide to hold legal challenges to regulations targeted by the Order in abeyance while the rulemaking process unfolds. If courts choose to do so, the current status of those regulations are unlikely to change until the rulemaking process is complete. Thus, if the stay applicable to the CPP remains in place, states and power plant operators can wait out the rulemaking process without having to comply with the mandates of that regulation. Similarly, the BLM Fracking Rule, rejected by the district court, is unlikely to become effective in its current form as the rulemaking process unfolds.

Regulations that have survived legal challenges thus far, such as the Power Plant NSPS and the Oil and Gas NSPS, will continue to be effective and require compliance. However, if courts decide to allow challenges to the regulations to proceed, any legal developments in those cases may have impacts on the continued effectiveness of those regulations as well as the rulemaking process to rescind or revise them. Court decisions on this procedural issue are likely to occur within the next several months. In the interim, industries will need to comply with any final regulations which are still effective and should monitor any developments with respect to any legal challenges to these regulations so that they can devise a strategy for future compliance, investment opportunities and business development.

2. Watch Out for Increased State Regulation. Additionally, while the Order continues to play out within the federal agencies, industry participants and investors should focus on state actions. With the federal government effectively announcing its withdrawal from climate change regulation, state

governments that support such regulation may fill the gap with more aggressive regulation such as enhanced renewable portfolio standards (“RPS”), emissions limits or regional climate change schemes. In addition, the Order largely sidesteps policies regarding renewable energy. Many observers have indicated that if the CPP is rescinded or revised, due to a variety of factors, including existing RPS, the power sector is likely to continue to move away from coal and toward renewables, albeit at a slower pace. If the Trump administration effectively opposes policies favoring renewable energy, this shift may slow even further.

3. Securities Law and Corporate Governance Implications. Public companies should consider the impacts resulting from the Order specific to them, and disclose any material impacts in their public disclosures. These may include potentially “stranded” capital expenditures incurred to comply with rescinded regulations or policies, possible climate change-related adverse weather events or changes in weather patterns and/or general material regulatory uncertainty. In particular, companies in the fossil fuel industry generally have more fulsome environmental disclosure and should carefully update their environmental disclosures for discussions of legal requirements addressed by the Order or associated risks or impacts, as appropriate. In addition, although the Order does not directly address renewable energy, companies in that sector should consider any indirect material impacts on the competitiveness of renewables as a fuel source resulting from the loosening of environmental regulation on fossil fuels called for by the Order, or possibly, the strengthening of RPS or similar state laws in reaction to Trump administration climate change and energy policies.

Finally, environmental advocacy groups and like-minded institutional investors can be expected to ramp up their activism regarding climate change and environmental stewardship as federal regulation of these matters decreases. These groups are likely to continue to use public pressure and shareholder proposals for inclusion in proxy statements to demand more disclosure from public companies regarding their environmental and climate change issues. In addition, private equity firms and hedge funds can expect increased pressure from such institutional investors to implement, strengthen and comply with commitments to incorporate environmental social & governance, or ESG, and sustainability investment considerations in fund management, due diligence processes and the operations of their portfolio companies.

**“Promoting Energy Independence and Economic Growth” Executive Order of March 28, 2017
Summary of Affected Regulations, Executive Actions, Policies, and Guidance Documents⁶**

Name of Affected Regulation, Executive Action, Policy, or Guidance	Description	Industries Impacted	Action Directed by Executive Order	Current Status
I. Regulations Targeted for Suspension, Revision or Rescission				
Clean Power Plan (“CPP”)	<p>Required a 32% reduction in GHG emissions from existing coal- and natural gas-fired power plants as compared to 2005 levels.</p> <p>Emissions reduction targets would have required the power sector to upgrade the efficiency of coal-fired power plants and shift electricity generation to natural gas and renewables.</p>	<p>Coal-fired power plants</p> <p>Natural gas-fired power plants</p> <p>Coal mining</p> <p>Renewable energy</p>	<p>EPA Administrator to review the CPP and as appropriate, suspend, revise, or rescind the regulation.</p> <p>DOJ to take necessary steps to stay, delay, or otherwise address the ongoing litigation.</p>	<p>This regulation is not in effect.</p> <p>This regulation was stayed by the U.S. Supreme Court in February 2016. It is currently under consideration by the D.C. Circuit Court of Appeals. DOJ has asked the court to hold the case in abeyance.</p>
New Source Performance Standards for GHG Emissions from New Power Plants (“Power Plant NSPS”)	<p>Sets GHG emissions reduction guidelines for new, modified, or reconstructed coal- and natural gas-fired power plants.</p> <p>Requires new technologies like carbon capture and sequestration for new, modified, or reconstructed coal-fired plants and combined cycle technology for new, modified, or reconstructed gas-fired power plants</p>	<p>Coal-fired power plants</p> <p>Natural gas-fired power plants</p> <p>Coal mining</p> <p>Renewable energy</p>	<p>EPA Administrator to review the Power Plant NSPS and as appropriate, suspend, revise, or rescind the regulation.</p> <p>DOJ to take necessary steps to stay, delay, or otherwise address the ongoing litigation.</p>	<p>This regulation is in effect.</p> <p>This regulation is the subject of ongoing litigation in the D.C. Circuit Court of Appeals. As of March 30, 2017, DOJ has asked the court to hold the case in abeyance and the court has delayed oral arguments in the case until it has ruled on the request.</p>

⁶ Defined terms used but not defined here are defined in the accompanying memorandum.

Name of Affected Regulation, Executive Action, Policy, or Guidance	Description	Industries Impacted	Action Directed by Executive Order	Current Status
<p>New Source Performance Standards for the Oil and Natural Gas Sector (“Oil and Gas NSPS”)</p>	<p>Limits methane and volatile organic compound emissions from new sources in oil and natural gas operations, with a focus on hydraulic fracturing.</p>	<p>Oil and natural gas production (especially hydraulic fracturing)</p>	<p>EPA Administrator to review the Oil and Gas NSPS and as appropriate, suspend, revise, or rescind the regulation.</p> <p>DOJ to take necessary steps to stay, delay, or otherwise address the ongoing litigation.</p>	<p>This regulation is in effect.</p> <p>This regulation is the subject of ongoing litigation in the D.C. Circuit Court of Appeals.</p>
<p>Methane and Waste Prevention Rule (“BLM Methane Rule”)</p>	<p>Limits venting, flaring, and leaking of natural gas, especially methane, at oil and natural gas wells on federal and Indian lands.</p> <p>Requires new technology and emissions controls.</p>	<p>Oil and natural gas production on federal and Indian lands</p>	<p>Secretary of the Interior to review the BLM Methane Rule and as appropriate, suspend, revise, or rescind the regulation.</p> <p>DOJ to take necessary steps to stay, delay, or otherwise address the ongoing litigation.</p>	<p>This regulation is in effect.</p> <p>This regulation is the subject of ongoing litigation in the U.S. District Court for the District of Wyoming.</p> <p>On February 3, 2017, the House of Representatives passed a resolution under the Congressional Review Act to repeal the BLM Methane Rule. A Senate resolution to repeal the regulation remains pending.</p>
<p>Hydraulic Fracturing on Federal and Indian Lands (“BLM Fracking Rule”)</p>	<p>Imposed new requirements for wellbore integrity, water quality, and disclosure of operations and chemical use.</p>	<p>Hydraulic fracturing on federal and Indian lands</p>	<p>Secretary of the Interior to review the BLM Fracking Rule and as appropriate, suspend, revise, or rescind the regulation.</p> <p>DOJ to take necessary steps to stay, delay, or otherwise address the ongoing litigation.</p>	<p>This regulation is not in effect.</p> <p>This regulation was struck down by the U.S. District Court for the District of Wyoming in June 2016. It is currently on appeal to the Tenth Circuit Court of Appeals. DOJ asked the court for an abeyance in mid-March 2017. The court has since cancelled oral arguments and ordered supplemental briefing in relation to the requested abeyance.</p>

Name of Affected Regulation, Executive Action, Policy, or Guidance	Description	Industries Impacted	Action Directed by Executive Order	Current Status
General Provisions and Non-Federal Oil and Gas Rights	Updates regulations governing private and state-owned oil and natural gas operations in lands within the National Park System (excluding Alaska), including new requirements for bonding and restoration.	Oil and natural gas production on lands within the National Park System	Secretary of the Interior to review the regulation and as appropriate, suspend, revise, or rescind it. DOJ to take necessary steps to stay, delay, or otherwise address the ongoing litigation.	This regulation is in effect.
Management of Non-Federal Oil and Gas Rights	Updates regulations governing the exercise of non-Federal oil and natural gas rights within the National Wildlife Refuge System (excluding Alaska).	Oil and natural gas production on lands within the National Wildlife Refuge System	Secretary of the Interior to review the regulation and as appropriate, suspend, revise, or rescind it. DOJ to take necessary steps to stay, delay, or otherwise address the ongoing litigation.	This regulation is in effect.
II. Executive Actions With Immediate Effect				
Moratorium on Federal Coal Leasing Program	Ceased the issuance of new leases to coal mining operations on federal lands. Coal leasing moratorium was imposed as part of a larger programmatic review of the federal coal program.	Coal mining Coal-fired power plants	Secretary of the Interior to lift the coal moratorium and commence federal coal leasing activities.	This moratorium is no longer in effect. On March 29, 2017, Secretary of the Interior Ryan Zinke lifted the moratorium and also halted the programmatic review of the coal program. A separate review of coal leasing royalties will proceed. The lifting of the moratorium is the subject of ongoing litigation in the U.S. District Court for the District of Montana, filed on March 29, 2017.

Name of Affected Regulation, Executive Action, Policy, or Guidance	Description	Industries Impacted	Action Directed by Executive Order	Current Status
<p>Technical Support Documents relating to Social Cost of Carbon, Nitrous Oxide, and Methane⁷</p>	<p>Guidelines from the Interagency Working Group on Social Cost of Greenhouse Gases (“IWG”) to executive agencies for quantifying the impact of projected changes in GHG emissions when conducting cost-benefit analyses of the impact of regulatory actions.</p>	<p>Coal-fired power plants Natural gas-fired power plants Coal mining Renewable energy Fossil-fuel intensive industries</p>	<p>IWG to be disbanded and policy documents issued by the IWG to be withdrawn.</p>	<p>IWG disbanded and technical updates and support documents from IWG withdrawn. OMB Circular A-4 of September 17, 2003 to be used in estimating the cost of changes in GHG emissions going forward.</p>
<p>Proposed Rule: CPP Proposed Federal Plan</p>	<p>A federal plan for implementing the CPP for states that failed to submit a plan in compliance with the CPP. Rule was also presented as a model for states to adopt in designing their own plans pursuant to the CPP.</p>	<p>Coal-fired power plants Natural gas -fired power plants Coal mining Renewable energy</p>	<p>EPA Administrator to review the proposed rule and determine whether to review or withdraw.</p>	<p>The proposed rule previously was published and a final rule is pending. Note that the Supreme Court stay of the CPP effectively moots this rule.</p>

⁷ The Order targets the following six technical support documents: (i) Technical Support Document: Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866 (February 2010); (ii) Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis (May 2013); (iii) Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis (November 2013); (iv) Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis (July 2015); (v) Addendum to the Technical Support Document for Social Cost of Carbon: Application of the Methodology to Estimate the Social Cost of Methane and the Social Cost of Nitrous Oxide (August 2016); and (vi) Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis (August 2016).

Name of Affected Regulation, Executive Action, Policy, or Guidance	Description	Industries Impacted	Action Directed by Executive Order	Current Status
<p>Legal Memorandum Accompanying CPP for Certain Issues</p>	<p>Document providing additional information concerning certain legal issues relevant to the CPP. This was published as a technical document in conjunction with the CPP.</p>	<p>Coal-fired power plants Natural gas -fired power plants Coal mining Renewable energy</p>	<p>EPA Administrator to review and as appropriate, suspend, revise, or rescind the legal memorandum.</p>	<p>This memorandum has not yet been suspended or withdrawn. Note that the Supreme Court stay of the CPP effectively moots the purpose of this document.</p>
<p>All agency actions that potentially burden domestic energy resources</p>	<p>All regulations, orders, guidance documents, policies, and similar agency actions that obstruct, delay, curtail, or impose significant costs on the development of domestic energy resources</p>	<p>Oil, natural gas, coal, nuclear, and renewable energy Coal mining Fossil-fuel intensive industries</p>	<p>Heads of all agencies to generally review agency actions that potentially burden domestic energy sources. Agencies to submit reports identifying such agency actions and plans for suspending, revising, or rescinding them.</p>	<p>No changes to date.</p>
<p>Executive Order 13653 of November 1, 2013 (“Preparing the U.S. for the Impacts of Climate Change”)</p>	<p>Directed agencies to integrate climate change considerations into their programs and operations. Established the interagency Council on Climate Preparedness and Resilience.</p>	<p>Certain government contractors</p>	<p>Revoke certain energy and climate-related presidential and regulatory actions.</p>	<p>Revoked.</p>
<p>Presidential Memorandum of June 25, 2013: Power Sector Carbon Pollution Standards</p>	<p>Set timelines for EPA to issue new proposals and final rules for the CPP and Power Plant NSPS.</p>	<p>Coal-fired power plants Natural gas -fired power plants Coal mining Renewable energy</p>	<p>Revoke certain energy and climate-related presidential and regulatory actions.</p>	<p>Revoked.</p>

Name of Affected Regulation, Executive Action, Policy, or Guidance	Description	Industries Impacted	Action Directed by Executive Order	Current Status
Presidential Memorandum of November 3, 2015: Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment	Directed agencies to adopt policies for the minimization and mitigation of impacts to the environment from their projects and activities.		Revoke certain energy and climate-related presidential and regulatory actions.	Revoked.
Presidential Memorandum of September 21, 2016: Climate Change and National Security	Established framework for directing agencies to ensure that climate change-related impacts are considered in the development of national security doctrine, policies, and plans.		Revoke certain energy and climate-related presidential and regulatory actions.	Revoked.
Report of the Executive Office of the President of June 2013 (“Climate Action Plan”)	Laid out the Obama administration’s broad-based plan for cutting carbon pollution and preparing the U.S. for climate change.	Coal-fired power plants Natural gas-fired power plants Coal mining Renewable energy	Revoke certain energy and climate-related presidential and regulatory actions.	Revoked.
Report of the Executive Office of the President of March 2014 (“Climate Action Plan Strategy to Reduce Methane Emissions”)	Outlined the Obama administration’s efforts to better identify, measure, and reduce methane emissions, including planned rulemakings.	Oil and natural gas operations	Revoke certain energy and climate-related presidential and regulatory actions.	Revoked.

Name of Affected Regulation, Executive Action, Policy, or Guidance	Description	Industries Impacted	Action Directed by Executive Order	Current Status
Council on Environmental Quality Final Guidance: “Consideration of Greenhouse Gas Emissions and Effects of Climate Change in NEPA Reviews”	Guidance that outlines reporting requirements under the National Environmental Policy Act (“NEPA”) for projects and programs proposed by or requiring approval of federal agencies that have the potential to emit or sequester GHGs.	Industries subject to NEPA reporting	Directs the Council on Environmental Quality to rescind this guidance.	This guidance may no longer be in effect. ⁸

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⁸ As of March 30, 2017 this guidance document appears to have been removed from the NEPA website.