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## **List of Trump Administration Rollback Actions: EPA Rules and Closely Related Rules**

This document lists Trump Administration actions to roll back Environmental Protection Agency (EPA) rules that were designed to protect public health and the environment. Also included are closely related rulemakings of other agencies.

The scope of Trump Administration environmental regulatory rollback activity is unprecedented. EPA plans on finalizing more than 30 deregulatory actions and fewer than 10 regulatory actions in fiscal year 2018, according to the agency’s “Statement of Priorities” in the Fall 2017 Unified Agenda of Regulatory and Deregulatory Actions.

This list covers completed, ongoing and planned rollbacks of proposed or final rules that are known to Save EPA. It focuses on executive branch actions subject to public notice and comment, but includes a couple of noteworthy actions not subject to notice and comment. The table of contents contains hyperlinks to enable readers to jump to each item of interest.

**For more information:** Endnotes in this document provide links that lead to more information on each rollback effort. Further information on nearly all of the listed rollbacks is available on the [Save EPA web site](#) (see the “Fighting Rule Rollbacks” tab), the Harvard Environmental and Energy Law Program’s [Regulatory Rollback Tracker](#), or both. Links to other information sources on rollbacks are provided on p. 17.

***Do you have information for us?*** *If you have information on an EPA rollback action not on this list, please contact [saveepa.guide@gmail.com](mailto:saveepa.guide@gmail.com).*

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## Air and Climate Protection

### *Climate – Pollution from Power Plants and Industry*

#### **Carbon Pollution Standards for New Power Plants – Review**

The Trump Administration has announced<sup>i</sup> plans to “withdraw” [national standards](#) for controlling climate-changing CO<sub>2</sub> emissions from new fossil-fuel-fired power plants – as well as from plants that are reconstructed or modified. Issuance of these “new source performance standards” on October 23, 2015, triggered a Clean Air Act requirement for state plans to control CO<sub>2</sub> emissions from existing power plants, the basis for EPA’s “Clean Power Plan.” (See Clean Power Plan entry.)

*Status:* A March 28, 2017, Trump executive order<sup>ii</sup> calls for review of this final rule. On April 4, 2017, EPA published a [notice](#) announcing that the agency is reviewing the rule and, if appropriate, will initiate proceedings to suspend, revise or rescind the rule. on April 4, 2017.

#### **Clean Power Plan Rule for Reducing Carbon Pollution from Existing Power Plants -- Repeal**

Despite the serious impacts of climate change now and in the future, the Trump administration is proposing to repeal the federal Clean Power Plan (CPP) rule to control our country’s biggest source of climate pollution — fossil-fuel-fired power plants. The Administration has proposed to repeal now and consider whether to replace the rule later. If not withdrawn, by 2030, the CPP would help achieve a 32 percent reduction in CO<sub>2</sub> emissions from the power sector relative to the 2005 level. CO<sub>2</sub> reduction strategies also would cut emissions of other air pollutants that are associated with increases in heart attacks, hospital admissions for asthma attacks, and deaths. EPA’s 2015 analysis shows that the health, environmental and other economic benefits of the CPP are large, dwarfing the costs to comply.

*Status:* For more information and current status, see Save EPA’s [Defending the Clean Power Plan](#) and [Advance Notice: Possible Replacement of the Clean Power Plan](#).

#### **Landfill Gas Standards for Municipal Landfills – Delay and Reconsideration**

The Trump EPA is reconsidering 2016 requirements that would require more municipal landfills to control landfill gas, which includes climate-changing methane pollution and other smog-forming and toxic pollutants. Landfills are the country’s third-largest source of methane pollution, a “super-pollutant” with a global warming potential more than 25 times that of

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carbon dioxide. In response to an industry petition, the agency is reconsidering certain aspects of two related rules -- national standards for new landfills and guidelines for state regulation of existing landfills.

*Status:* EPA announced the reconsideration in a May 5, 2017, letter, and on May 31, 2017, stayed both rules until August 29, 2017. The rule is currently in effect, but EPA’s web site says it intends to complete the reconsideration process granted by the Administrator.<sup>iii</sup> The Fall 2017 Unified Agenda for Regulatory and Deregulatory Actions says that EPA intends to extend the state plan submittal due date to March 13, 2020.

### **Methane Standards for Oil and Gas Sector (EPA) – Delay and Reconsideration**

The Trump EPA has proposed to delay and is reconsidering key elements of standards to cut methane, smog-forming pollutants, and toxic air pollution from new, reconstructed and modified facilities in the oil and gas sector. Oil and gas wells and other facilities are this country’s largest emitter of methane, a “super-pollutant” with a global warming potential more than 25 times that of carbon dioxide. Oil and gas facilities are also significant contributors to smog pollution in the West and other parts of the country.

*Status:* Administrator Pruitt on February 23, 2018, signed a notice amending two provisions addressing fugitive emissions requirements in the 2016 rule in response to comments on the proposed stays. As of March 1, the agency continued to consider the proposed stays.<sup>iv</sup> The Fall 2017 Unified Agenda of Regulatory and Deregulatory Actions calls for a reconsideration proposed rule in August 2018 and a final rule in September 2019. For more information, see Save EPA’s [Defending Air Pollution Standards for the Oil and Gas Sector \(Methane and VOCs\)](#) and [Defending Oil and Gas New Source Performance Standards: Notice of Data Availability for 3-Month and 2-Year Stays](#)

*Additional historical information:* On April 18, 2017, EPA granted reconsideration of fugitive emission requirements at well sites and compressor station sites, and on June 5, 2017, granted reconsideration of well site pneumatic pumps standards and the certification of closed vent system design and capacity by a professional engineer.

### **Methane and Waste Prevention Rule for Federal and Indian Lands (Department of Interior, Bureau of Land Management) – Delay and Repeal**

A March 28, 2017, Trump executive order<sup>v</sup> directs the Bureau of Land Management to review its rule to reduce natural resource waste and loss of royalties from new and existing oil and gas facilities on federal and Indian lands. The rule, issued on November 18, 2016, is designed to reduce the loss of natural gas through venting, flaring and leaks during the production of oil and gas on those lands. Methane is the primary component of natural gas.

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*Status:* In December 2017, BLM finalized a 2-year delay of key compliance deadlines to January 17, 2019. BLM on February 12, 2018, [announced a proposal](#) to replace the rule and essentially restore the requirements that existed before the 2016 rule. For more information and current status, see Save EPA’s [Defending the Methane and Waste Prevention Rule Against Delay](#) and [Defending the Methane and Waste Prevention Rule Against Repeal](#).

*Additional historical information:* BLM on June 15, 2017, administratively postponed compliance deadlines for portions of the rule that had not yet gone into effect.<sup>vi</sup> On October 5, 2017, a federal court struck down that action, which means the delayed provisions take effect. On the same day, BLM proposed for public comment a new delay of key compliance deadlines.<sup>vii</sup>

### **Information Collection Requirement for Oil and Gas Sector – Withdrawal**

Under Clean Air Act authority, EPA sent letters in 2016 to more than 15,000 owners and operators in the oil and gas industry to require them to provide information on onshore oil and gas production facilities, sources of methane emissions, and emissions control devices and practices. That information could have helped laid the groundwork for federal rules to cut methane emissions from existing oil and gas facilities. Current rules for oil and gas sector methane (new source performance standards) apply only to facilities that are new or modifying, and are being revisited by the Trump Administration. (See separate entry.)

*Status:* EPA Administrator Pruitt withdrew the information request March 2, 2017, according to a March 7, 2017, Federal Register notice.<sup>viii</sup> As a result, the oil and gas industry is no longer required to provide the information.

### *Climate – Pollution from Vehicles*

#### **Vehicle Climate Pollution Standards for Cars and Light Trucks – Reconsideration**

(See also related Fuel Economy Standards entry below)

The Trump EPA has announced that it will reconsider a 2016 determination that it is feasible for automakers to meet previously issued standards for climate pollution that apply to model year 2022-2025 cars and light trucks. The agency is also reopening the climate pollution standards for model year 2021 cars and light trucks. Motor vehicles are the country’s second-largest source of climate pollution. The standards being reviewed are designed to cut climate pollution and improve fuel efficiency while bolstering energy security and spurring manufacturing innovation.

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*Status:* Administrator Scott Pruitt on April 2, 2018, signed a determination that the existing model year 2022-2025 greenhouse gas standards for cars, SUVs and light trucks should be revised on grounds that recent information suggests the standards “may be too stringent.” For more information and updates, see [Defending Climate Pollution Standards for Cars, SUVs and Light Trucks](#). The Fall 2017 Unified Agenda of Federal Regulatory and Deregulatory Actions calls for EPA to issue a new final determination for the mid-term evaluation of the feasibility of the standards no later than April 1, 2018, as required by EPA regulations.

*Additional historical information:* In response to industry petitions, EPA on March 15, 2017, published a notice of intent<sup>x</sup> to reconsider its mid-term evaluation of the feasibility of the model year 2022-2025 standards. On August 10, 2017, EPA issued a joint notice with the National Highway Traffic Safety Administration (NHTSA) that reopened the comment period on its 2016 determination and asked for comment on the model year 2021 standards. A public hearing was held September 6, 2017. The comment period ended October 5, 2017.

### **Fuel Economy Standards for Cars and Light Trucks (National Highway and Traffic Administration) – Reconsideration and Standard-Setting**

(This non-EPA action is being taken in parallel with EPA’s vehicle standards reconsideration described above because lowering carbon dioxide emissions and improving fuel economy are closely linked.)

The Trump National Highway Traffic Safety Administration (NHTSA) is considering setting model year 2022-2025 corporate average fuel economy (CAFE) standards for cars and light trucks that would be weaker than NHTSA’s prior “best estimate” of what these standards should be. The “best estimate” levels were consistent with EPA’s closely related climate pollution standards for model year 2022-2025 cars and light trucks, but were not finalized because NHTSA lacks statutory authority to issue standards so soon for the later model years. NHTSA is also re-evaluating its final model year 2021 fuel economy standards, which mirror EPA’s standards for that model year.

*Status:* For more information and current status, see [Defending Corporate Average Fuel Economy Standards](#). *Additional historical information:* NHTSA on July 26, 2017, published a notice of intent<sup>x</sup> to prepare environmental impact statements for model year 2022-2025 fuel economy standards for cars and light trucks. The public comment period ended August 25, 2017. The Fall 2017 Unified Agenda of Federal Regulatory and Deregulatory Actions includes a rulemaking to establish 2022-2025 fuel economy standards. The schedule called for a proposed rule in March 2018; the legal deadline for the final rule is April 1, 2020. See also related EPA action above on climate pollution standards for cars, SUVs and light trucks.



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## **Civil Penalties for Violating Fuel Economy Standards (National Highway Traffic Administration) – Reconsideration**

The Trump National Highway Traffic Safety Administration (NHTSA) is reconsidering inflation increases in the civil penalty rate for automakers violating corporate average fuel economy (CAFÉ) standards. The amount of the civil penalty was originally set by statute in 1975, and for most of the time since then has been constant. NHTSA raised the rate in 2016 following a formula in a recently passed law, but the agency is now reconsidering the level.

*Status:* NHTSA in July 12, 2017, Federal Register notice<sup>xi</sup> requested public comment on the appropriate inflationary adjustment for CAFÉ civil penalties. NHTSA extended the public comment period in August. The comment period ended October 10, 2017. On March 27, 2018, NHTSA issued a [notice of proposed rulemaking](#) in the Federal Register (docket number NHTSA-2018-0017) proposing to retain the existing penalty rate applicable to automobile manufacturers that fail to meet Corporate Average Fuel Economy (CAFE) standards, and not to adjust the rates for inflation. A 30-day public comment period was provided. See [NHTSA’s corporate average fuel economy page](#) for more information.

## **State Reporting of Vehicle Emissions of Greenhouse Gases – Delay and Repeal**

The Trump Administration has proposed repeal of requirements for states to measure greenhouse gas emissions related to use of federally funded highways that the Federal Highway Administration put into place in January 2017.

The GHG reporting requirement was among several performance measures established for assessing the Congestion Mitigation and Air Quality Improvement Program, which has been authorized by successive transportation laws since 1991. Under the CMAQ program, FHWA allocates funds to State and local governments for transportation projects and programs to help meet the requirements of the Clean Air Act. Funding is available to reduce congestion and improve air quality for areas that do not meet the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter (nonattainment areas) and for former nonattainment areas that are now in compliance (maintenance areas).

The performance measure regulation implement provisions of the 2012 and 2015 highway infrastructure legislation regulation, which calls for performance measurement standards but not specifically for GHG measurement.

*Status:* The CMAQ performance measures [rule](#) became effective May 20, 2017. The GHG measure was delayed but became effective September 28, 2017 [[82 FR 22879](#)]. FHWA on October 5, 2017, proposed to repeal the greenhouse gas performance measure [[82 FR 46427](#)]. Comments were due by November 6, 2017, but the [opportunity to comment](#) remained open on



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regulations.gov as of March 12, 2018, and the repeal notice says late comments will be considered to the extent possible.

## *Air Quality/Regional Haze*

### **Ozone National Air Quality Standards (NAAQS) – Review and Implementation Delay**

The Trump EPA has stated that it “intends to closely review” the current national air quality standards for ground-level ozone (smog). The standards, which are supposed to protect public health and the environment from harm, were set in 2015 after extensive scientific review and advice from an expert scientific advisory committee. Ozone is associated with premature death, worsening of mortality, exacerbation of asthma attacks, and a variety of respiratory problems including permanent lung damage from long-term exposure.

*Status – Review of Standards:* In a court filing,<sup>xii</sup> EPA stated its intention to review the rule; EPA has yet to announce a next step. The Unified Agenda of Federal Regulatory and Deregulatory Actions does not include a listing for this review, and EPA is engaged in rulemakings for implementation of the standards.

*Status – Delay of Implementation:* Administrator Pruitt in June 2017 announced EPA would delay implementation of the 2015 ozone standards by one year by delaying designation of clean and dirty air areas. After July lawsuits by environmental groups and an August 1, 2017, announcement by the Attorney General of New York that he and 15 others were suing EPA over the delay, EPA announced it would proceed as originally scheduled. On November 16, 2017, EPA designated much of the country “in attainment” with the health-based national ambient air quality standards for ozone. However, EPA did not complete the designations on time for about 400 counties, prompting 14 states and other stakeholders to file suit.<sup>xiii</sup> After additional lawsuits were filed by public health and environmental groups, and by the New York attorney general and 13 other state attorneys general, EPA [issued anticipated designations](#) for the remaining areas on December 22, 2017, starting a 120-day process for responses from state and tribes to provide additional information. EPA published most designations on April 30, identifying 51 areas as not attaining the standards.<sup>xiv</sup> Designations for 8 additional counties in the San Antonio Texas area are to be completed by July 17, 2018. Another rule necessary for implementation of the ozone standard was issued March 1, 2018. EPA finalized the Obama administration’s proposed classification system for areas with air quality that does not meet the health-based national ambient air quality standard for ozone, and setting the deadlines for areas in each classification to meet the standard. For more detail and additional links, see the Harvard Law Environmental Regulatory Rollback Tracker web page on [Ozone National Ambient Air Quality Standards](#).

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### **Control Techniques Guidelines for Oil and Natural Gas Industry – Withdrawal**

The Trump Administration plans to withdraw control techniques guidelines for the oil and natural gas industry that EPA issued in October 2016, setting back efforts to control ozone smog. The guidelines provide information to state, local, and tribal air agencies to assist them in determining reasonably available control technology for emissions from select oil and natural gas industry sources of volatile organic compounds, which react in the atmosphere to form ozone smog. Issuance of an EPA control techniques guideline triggers a Clean Air Act requirement for states to require reasonably available controls for pollution sources covered by the guideline in areas with ozone pollution that are classified as moderate, serious, severe or extreme. This requirement also applies in the 13-state Ozone Transport Region that stretches from northern Virginia to Maine. Withdrawal of the guideline is likely to result in less control of ozone-forming emissions from the oil and gas industry in some areas of the country.

*Status:* EPA Administrator Scott Pruitt on March 1, 2018, signed a [notice](#) requesting public comment on a potential withdrawal of the guidelines. The comment period will extend 45 days from the date of the notice’s publication in the Federal Register.

### **Truck Pollution Standards: Re-opening of Loophole for Glider Trucks -- Proposal**

The Trump Administration has proposed to reopen a loophole in truck pollution standards that had allowed companies to install old engines in new truck chassis without meeting modern pollution standards. These vehicles are known as “glider trucks.” Old truck engines emit high large amounts of air pollutants linked to premature death, cancer, heart attacks, exacerbation of respiratory diseases such as asthma and other health problems.

*Status:* For more information, see [Proposed Re-Opening of Loophole for Super-Polluting Trucks](#).  
*Additional historical information:* A federal court on May 8, 2017, granted a request by the Trump EPA to put a lawsuit on hold while EPA reviews a petition by the Truck Trailer Manufacturers’ Association to reconsider August 2016 emission standards for medium- and heavy-duty trucks.<sup>xv</sup>

### **New Source Review Program – Potential Changes**

The Clean Air Act contains “new source review” (NSR) provisions that require a permit process through which pollution control requirements for construction or modification of major pollution sources are determined by states and EPA. The Trump Administration has identified “opportunities to simplify the NSR application and permit process; to review ways to reduce the length of the permitting process; to review burdens created by the current emissions offsets structure; to improve relationships with the states; and to review the “once in, always in” policy to clarify the means by which a facility currently classified as a major source can become an

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area source.” This statement is from EPA’s “[Final Report](#) on Review of Agency Actions that Potentially Burden the Safe, Efficient Development of Domestic Energy Resources Under Executive Order 13783,” October 25, 2017.

Status: EPA had not issued any notice-and-comment rulemaking proposals for the NSR program as of June 3, 2018. (Although policy memos are beyond the scope of this list, EPA has finalized new NSR policy memos that relate to program applicability, including a December 7, 2017, [policy memo](#), and a March 13, 2018, [policy memo](#). For additional new NSR policy memos, see “News and Announcements” on [EPA’s NSR home page](#).)

### **Haze Rule to Protect National Parks and Wilderness Areas -- Revision**

EPA plans to revisit the 2017 Regional Haze Rule revisions, which were issued to better protect visibility in national parks, wilderness areas, and certain other public lands. The action is a response to petitions for reconsideration from electric power industry entities and the state of Alaska. The agency announced in January that it intends to consider changes to the Reasonably Attributable Visibility Impairment (RAVI) provisions, the provisions regarding Federal Land Manager (FLM) consultation, and other to-be-identified elements of the rule. Furthermore, EPA plans to finalize one or more EPA guidance documents for regional haze State Implementation Plan (SIP) revisions due in 2021. That guidance may also address some or all of the issues raised in the petitions for reconsideration.

Status: While not so far acting on the petitions for reconsideration, the EPA has decided to revisit aspects of the 2017 Regional Haze Rule under its inherent rulemaking authority. EPA intends to prepare a proposed rule for public comment, according to EPA’s web page on the action.<sup>xvi</sup>

### *Toxic Air Pollution from Power Plants and Industry*

#### **Toxic Air Pollution Major Source Policy: Once In, Always In -- Withdrawal**

The Trump Administration has withdrawn a 1995 EPA policy that was designed to ensure that all major sources of toxic air pollution must install maximum achievable control technology, as Congress directed in the 1990 Clean Air Act Amendments. MACT standards by law reflect the emission levels already being met by the best-performing similar pollution sources in an industry category. The 1995 policy said that after the first compliance date of a MACT standard, the pollution source must continue to meet the MACT standard indefinitely. The Trump Administration plans to modify air toxics program rules to allow qualifying sources to switch from major source status to minor “area source” status at any time. This would enable

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some sources that had installed MACT-level controls and reduced their emissions to low levels to *increase their emissions* up to the major source level (the potential to emit 10 lbs. of a single hazardous air pollutant, or 25 lbs. of a combination of such pollutants). The policy change also would enable such sources to avoid major source permitting requirements.

*Status:* EPA on January 25, 2018, [announced](#) the withdrawal of the policy and released a new policy [memorandum](#) officially noticed in the [Federal Register](#) on February 8, 2018. EPA anticipates that it will soon publish a Federal Register notice to take public comment on adopting regulatory text in connection with the policy change.

### **Mercury and Air Toxics Standards (MATS) for Power Plants – Review**

The Trump EPA is considering whether to reopen 2012 toxic air pollution standards for fossil-fuel-fired power plants – even though power plants have already complied and are achieving large pollution reductions. The rule cuts emissions of mercury and other toxic air pollutants, as well as reducing emissions that form fine-particle pollution (soot) and ground-level ozone (smog). Exposure to methylmercury through eating fish can interfere with nervous system development in fetuses and young children, and other toxic pollutants from power plants are associated with cancer and other serious illnesses. Fine particles and ozone are associated with premature death, heart and lung ailments, hospitalizations and emergency room visits.

*Status:* *In a court filing,<sup>xvii</sup> EPA stated its intent to review the rule; EPA has yet to announce a next step. The Unified Agenda does not include a listing for this review.*

### **Startup/Shutdown/Malfunction Rule for Toxic Emissions from Industrial Facilities – Reconsideration**

The Trump EPA is reconsidering a 2015 rule that directed 36 states to make their rules consistent with the Clean Air Act by removing provisions that treat excess emissions during startup, shutdown and malfunctions as not subject to emission limits and not in violation.

*Status:* *A federal court on April 24, 2017, granted EPA’s request to delay a lawsuit while the agency reviews the rule for possible modification or repeal.<sup>xviii</sup> The Unified Agenda does not include a listing for this review. On June 2, 2017, EPA withdrew plans for an amendment to regulations that provide an exemption from the requirement to comply with hazardous air pollutant standards during startup, shutdown and malfunction events, according to the Fall 2017 Unified Agenda of Regulatory and Deregulatory Actions.*

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## **National Emission Standards for Hazardous Air Pollutants (NESHAP) for Manufacture of Amino/Phenolic Resins –Reconsideration**

The Trump EPA is proposing to weaken air toxics limits for laminate resin manufacturing, including proposing to revise the MACT standards for back-end CPVs (continuous process vents) at existing sources. EPA is also soliciting comment on 1) whether the agency should modify the front-end CPV MACT standards for existing sources, and 2) whether the EPA should extend the compliance date for the proposed revised back-end CPV MACT standards for existing sources. Finally, EPA is proposing work practice requirements for storage vessels at new and existing sources during planned routine maintenance of emission control systems.

*Status: Proposed in Federal Register on August 24, 2017<sup>xix</sup>, comment period closed on October 23, 2017. The Fall 2017 Unified Agenda of Federal Regulatory and Deregulatory Actions indicates the final rule is due in March 2018.*

## **Energy Subsidies**

### **Subsidies for Coal and Nuclear Power Plants (Grid Resiliency Pricing Rule -- DOE-FERC) – Proposal (Terminated)**

The Department of Energy (DOE) is proposing that the Federal Energy Regulatory Commission (FERC) finalize a rule that would subsidize generation of electricity by coal and nuclear power plants by paying them for the costs of all the electricity they generate regardless of whether the electricity is needed. This would disadvantage electricity from natural gas and renewable resources. DOE advocates this on grounds that the subsidy is needed for grid reliability, a claim that cannot be supported. The proposal would have an adverse effect on consumer electricity prices, the economy, and the environment. Yet no analysis of these impacts is offered by DOE.

*Status: The Federal Energy Regulatory Commission abandoned this proposal by terminating the rulemaking on January 8, 2018. In its place, the Commission initiated a new proceeding to “examine the resilience of the bulk power system.” For more information and current status, see [Opposing Subsidies for Coal and Nuclear Power Plants](#). Additional historical information: The grid resilience pricing rule was proposed<sup>xx</sup> on October 10, 2017, and the comment period closed on October 23, 2017.*

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## Water Protection

### Clean Water Act Protections for Bristol Bay, Alaska (Pebble Mine) – Withdrawal (Action Terminated)

The Trump EPA proposed to withdraw restrictions on discharge of mining wastes in Alaska’s Bristol Bay watershed, the largest sockeye salmon spawning area in the world, but has now suspended the action.

*Status:* Administrator Scott Pruitt [suspended this withdrawal action](#) on January 26, 2018. The press release said, “This decision neither deters nor derails the application process of Pebble Limited Partnership’s proposed [mining] project. ... However, their permit application must clear a high bar, because EPA believes the risk to Bristol Bay may be unacceptable.” For more information, see Save EPA’s [Withdrawal of Clean Water Act Protections for Bristol Bay \(Pebble Mine\)](#). Additional historical information. The proposed withdrawal was published on July 19, 2017 and the public comment period closed on October 17, 2017. The Unified Agenda does not include a listing for this review.

### Clean Water Rule to Protect “Waters of the U.S.” – Delay Finalized

The Trump Administration has delayed applicability of the 2015 Clean Water Rule, which was issued to provide protections for two million miles of waterways and millions of acres of wetlands.

*Status:* Pre-2015 regulations defining “Waters of the U.S.” are in effect. The 2015 rule was stayed by the U.S. Court of Appeals for the Sixth Circuit. Subsequently, EPA and the U.S. Department of the Army on January 31, 2018, finalized a rule delaying applicability of the rule for two years – until February 6, 2020. The delay had been proposed on November 22, 2017.<sup>xxi</sup> For more information from Save EPA, see [Defending Our Waters: The Trump Administration Proposes to Delay the Clean Water Rule for Two Years](#).

### Clean Water Rule to Protect “Waters of the U.S.” (WOTUS) – Rescind-and-Replace Proposals

The Trump Administration has proposed to remove Clean Water Act protections from two million miles of waterways and millions of acres of wetlands. Rollback of the 2015 Clean Water Rule would put drinking water at risk for 117 million Americans.

The Unified Agenda of Regulatory and Deregulatory Actions calls for two related actions:<sup>xxii</sup> (1) a proposal to rescind the 2015 Clean Water Rule and revert to the prior rule defining the “waters of the U.S.,” and (2) a substantive re-evaluation and revision of the definition of “waters of the

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U.S.” in accordance with a February 28, 2017 executive order.<sup>xxiii</sup> EPA’s statement of priorities in the Fall 2017 regulatory agenda says that the agencies are considering a definition for “navigable water” consistent with the plurality opinion of Justice Antonin Scalia in the *Rapanos* decision.

*Status of Action 1:* The proposed rescission (action 1) was published on July 27, 2017. That public comment period ended September 27, 2017<sup>xxiv</sup>. The Fall 2017 Unified Agenda of Regulatory and Deregulatory Actions calls for a final rule in April 2018. For more information, see [Defending Our Waters](#).

*Status of Action 2:* On August 25, EPA announced that EPA and the Corp of Engineers would hold a series of outreach meetings for the second phase of this effort (action 2, re-evaluation and revision of the definition of “waters of the U.S.”). This includes a series of 9 teleconferences focused on specific stakeholders and one for the general public (ten total), from September 19th through November 21st.; the general public teleconference is on November 21. Finally, EPA has established a docket for written comments at this pre-proposal stage of Action 2. (For more information from Save EPA, see [Defending Our Waters](#). For the EPA web page on these processes, see <https://www.epa.gov/wotus-rule/outreach-meetings>). The Fall 2017 Unified Agenda for Federal Regulatory and Deregulatory Actions calls for proposal of a revised definition of “waters of the U.S.” in April 2018, with a final rule in June of 2019. The agenda indicates that the Department of the Army is conducting a parallel action.

### **Hydraulic Fracturing Rule (Department of Interior, Bureau of Land Management) – Rescinded**

In response to a Trump executive order<sup>xxv</sup>, BLM has rescinded its 2015 rule to require safeguards when hydraulic fracturing (often called “fracking”) is used to enhance production of oil and gas on federal and Indian lands. The rule would protect water supplies, ensure safe environmental management of fluids that flow back to the surface, and ensure public disclosure of the chemicals used in hydraulic fracturing fluids.

*Status:* BLM [announced](#) the final action to rescind the rule on December 28, 2017. A proposal to rescind the rule was published July 25, 2017. The public comment period ended on September 25, 2017.<sup>xxvi</sup> For more information from Save EPA, see [Rollback of Controls on Hydraulic Fracturing \(Fracking\) on Federal and Indian Lands](#).

### **Toxic Water Rule (Steam Electric Power Effluent Limitations Guidelines & Standards (ELG)) – Delay and Reconsideration**

The Trump Administration has delayed some of the compliance dates for the effluent limitations guidelines and standards for steam electric power plants. This 2015 rule, the “Toxic



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Water Rule" or "ELG Rule," limits toxic metals that power plants dump into rivers and streams. This delay allows time for the Administration to continue considering weakening these limits.

*Status:* On September 18, 2017, EPA finalized a 2-year delay until November 1, 2020, of the earliest compliance dates for the ELG rule that was issued in November 2015. The notice also said EPA plans to issue a proposal to reconsider some of that rule's requirements for existing sources (specifically, Best Available Technology Economically Achievable effluent limitations and pretreatment standards for existing sources that apply to bottom ash transport water and flue gas desulfurization (FGD) wastewater).<sup>xxvii</sup> The Fall 2017 Unified Agenda for Regulatory and Deregulatory Actions calls for a proposed rule in May 2019 and a final rule in September 2020.

*Additional historical information:* EPA in an April 12, 2017, letter granted two petitions for reconsideration of the rule by an industry group and the Small Business Administration Office of Advocacy. ON April 25, 2017, EPA issued an administrative delay of effective dates not yet passed. EPA published a proposal to delay the rule on June 6, 2017, a public hearing was held July 31, 2017, and the delay was finalized September 18, 2017. On August 11, 2017, Pruitt signed a letter indicating EPA's intent to issue a proposal to reconsider and likely weaken the rule. The Unified Agenda lists the reconsideration proposal among “long-term actions” not anticipated within 12 months.

### **Protecting Surface Water from Groundwater Pollution – Request for Comment**

The Trump EPA is considering revising the agency's previous statements that Clean Water Act permits may be required for facilities to discharge pollutants that reach rivers, streams and lakes through groundwater or other subsurface flow. Most court decisions and EPA documents have recognized that requiring discharge permits in this situation is consistent with EPA's regulations, but some courts have said requiring such permits is not legally authorized. This proposal lays the groundwork for a possible weakening of EPA's existing rules.

For more information on this rollback proposal, see [Protecting Surface Water from Groundwater Pollution](#).

*Status:* The Trump EPA published a request for comment on February 20, 2018. The public comment period ended May 21, 2018.

## Chemical Accident Prevention and Response

### Risk Management Plan Program Revisions – Delay, Rescissions and Amendments

In response to industry and state petitions, the Trump EPA has proposed to weaken a January 2017 rule that improves accident prevention and emergency response planning by facilities handling extremely hazardous chemical substances. The rule was designed to help protect local first responders, community members and employees from death or injury due to chemical facility accidents.

Specifically, EPA proposed to rescind amendments relating to safer technology and alternatives analyses, third-party audits, incident investigations, information availability, and several other minor regulatory changes. EPA is also proposing to modify amendments relating to local emergency coordination and emergency exercises, and to change the compliance dates for these provisions.

*Status: EPA received three petitions for reconsideration from industry groups and Louisiana and 10 other states. EPA proposed and finalized delays of the rule’s effective date until February 19, 2019, as reconsideration proceeds. Administrator Scott Pruitt on May 17, 2018, signed a proposed rule to modify the final Risk Management Program Amendments rule issued on January 13, 2017.*<sup>xxviii</sup>

## Pesticides Safeguards

### Proposed Ban on the Pesticide Chlorpyrifos in Food – Rejection Order

Chlorpyrifos is a highly toxic, widely used organophosphate pesticide. It is used primarily to control foliage and soil-borne insect pests on a variety of food and feed crops, including corn, soybeans, fruit and nut trees, and row crops – and in nonagricultural uses such as golf courses. At high enough doses, chlorpyrifos can overstimulate the nervous system causing nausea, dizziness, confusion, and at very high exposures (e.g., accidents or major spills), respiratory paralysis and death.<sup>xxix</sup>

The Trump EPA in March 2017 denied a petition requesting that EPA ban the pesticide. The petition was filed in September 2007 by the Pesticide Action Network North America (PANNA) and the Natural Resources Defense Council (NRDC). A key concern was potential for neurodevelopmental effects.

The petition called on EPA to revoke all tolerances for chlorpyrifos under the Federal Food, Drug, and Cosmetic Act, which regulates pesticide residues in food and feed commodities. Before allowing the use of a pesticide on food crops, EPA sets a maximum legal residue limit (called a tolerance) for each treated food. If residues are found above that level, the commodity is subject to seizure by the government.<sup>xxx</sup> The petition also called on EPA to cancel

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all chlorpyrifos registrations under the Federal Insecticide, Fungicide and Rodenticide Act, which would have effectively banned sale or distribution of the pesticide in the United States.

In response to the petition, EPA on November 6, 2015, had proposed to revoke all chlorpyrifos tolerances. The agency issued a related notice of data availability on November 17, 2016.<sup>xxx1</sup>

Status: The Trump EPA order denying the petitions was effective April 5, 2017.

### **Certification Rule for Pesticide Applicators – Delay and Review**

The Trump EPA has delayed and plans to review a rule strengthening protection for workers who apply restricted use pesticides. Published in January 2017, the rule set stronger standards to reduce risks to the individuals applying these pesticides in their daily jobs, and to help protect families, communities, and the environment from pesticide exposure.

Status: The rule’s effective date is delayed until May 22, 2018. EPA plans to review it under an April 25, 2017, executive order on agriculture.<sup>xxxii</sup> The Fall 2017 Unified Agenda of Regulatory and Deregulatory Actions calls for a proposal suggesting changes to the pesticide applicator certification rule in September 2018.

## **Radiation Protection**

### **Weakening of Proposed Groundwater Contamination Limits for Uranium and Thorium Mining – Re-proposal**

The Trump Administration is considering standards the Obama Administration proposed in January to prevent, monitor and remedy groundwater contamination from uranium extraction operations -- standards weaker than originally proposed in 2015. Radionuclide contamination of drinking water aquifers has been documented at a number of uranium mines in recent years.

Status: The comment period was extended on August 2, 2017, but closed October 16, 2017. For information on the two proposals and how to comment – including suggested talking points -- see [Defending Limits on Uranium Mining Contaminants in Groundwater](#).

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## **Use of Science**

### **Restricting Use of Science – Proposed Rule**

EPA is proposing to restrict its use of scientific studies in developing rules and other policies. The proposed regulation provides that, for the science pivotal to its significant regulatory actions, EPA will ensure that the data and models underlying the science is publicly available in a manner sufficient for validation and analysis. Although the Trump Administration advocates the proposal as supporting “transparency,” the proposal would make it difficult or impossible for EPA to consider the full array of well-conducted, relevant, and peer-reviewed scientific studies of the health effects of pollution. Some of the most useful and influential studies are conducted by university or other non-government scientists, and the underlying raw data is not publicly available due to privacy concerns about patients’ medical information.

For more information, see [Restricting the Use of Science Under the Guise of Providing Transparency](#).

*Status: The proposed rule was published in the Federal Register on May 30, 2018, with a public comment period closing July 30, 2018.*

## Waste Protection

### Coal Ash Disposal Requirements -- Revision

The Trump Administration is proposing to weaken the national standards that EPA issued in April 2015 for disposal of coal ash in existing and new landfills and surface impoundments. Coal ash, which contains a variety of toxic substances, attracted public attention in 2008 when coal ash sludge burst through a dam at the Tennessee Valley Authority Kingston plant and covered 300 acres, destroying dozens of homes -- and again in 2014, when a portion of a coal ash dump in North Carolina collapsed, fouling 80 miles of the Dan River.<sup>xxxiii</sup>

The proposal also contains provisions to implement 2016 legislation that provides for states with approved coal combustion residual permit programs the ability to set certain alternative performance standards in lieu of the coal ash rule requirements, as long as EPA determines them equally protective. EPA proposes that it could set alternative standards where it is the permitting authority. The alternative standards could affect when or if groundwater monitoring is necessary, when cleanup of contaminated groundwater is required, the extent of a groundwater cleanup, and how long a polluter is required to monitor a closed site. The proposal also includes changes to the rule to address provisions that a court remanded to EPA in June 2016, and calling for allowing the use of coal combustion residuals in construction of cover systems for disposal units closing with waste in place. Environmental groups such as Earthjustice have been sharply critical of the proposal, saying it would weaken or remove important rule protections.

For more information on the proposal, see [Defending Health and Environmental Safeguards for Coal Ash Disposal](#). See also [EPA’s web page](#) on the proposed coal ash rule amendments, which indicates that this is the first of two proposals.

**Status:** In September 2017 EPA [granted two petitions](#) by utility industry entities for reconsideration of the 2015 rule. Administrator Pruitt on March 1, 2018, signed a proposed [rule](#). EPA held a hearing on the proposed rule on April 24, 2018 in Arlington, Virginia, and the public comment period ended April 30.

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## Sources for More Information on Regulatory Rollbacks

The information provided here is based on executive orders, Federal Register notices, the July 20, 2017, Unified Agenda of Regulatory and De-Regulatory Actions<sup>xxxiv</sup> issued by the Trump Administration, press statements, press reports, and the trackers listed below.

- Harvard Environmental and Energy Law Program tracker for environmental regulatory rollbacks: <http://environment.law.harvard.edu/policy-initiative/regulatory-rollback-tracker/>.
- Climate Deregulation Tracker of the Sabin Center for Climate Change Law at Columbia Law School: <http://columbiaclimatelaw.com/resources/climate-deregulation-tracker/>
- Climate Blog of Sabin Center for Climate Change Law at Columbia Law School: <http://blogs.law.columbia.edu/climatechange/2017/06/07/june-2017-updates-to-the-climate-case-charts/>
- The Washington Post deregulatory tracker: [https://www.washingtonpost.com/graphics/politics/trump-rolling-back-obama-rules/?utm\\_term=.1803f09359e5](https://www.washingtonpost.com/graphics/politics/trump-rolling-back-obama-rules/?utm_term=.1803f09359e5)

## Endnotes

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<sup>i</sup> Unified Agenda of Regulatory and Deregulatory Actions.

<https://www.reginfo.gov/public/do/eAgendaMain>

See also Executive Order 13783:

<https://www.federalregister.gov/documents/2017/03/31/2017-06576/promoting-energy-independence-and-economic-growth>

Unified Agenda of Regulatory and Deregulatory Actions:

<https://www.reginfo.gov/public/do/eAgendaMain>

See also April 4, 2017, Federal Register notice:

<https://www.federalregister.gov/documents/2017/04/04/2017-06519/review-of-the-standards-of-performance-for-greenhouse-gas-emissions-from-new-modified-and>

<sup>ii</sup> See April 11, 2017, report in The Washington Post:

[https://www.washingtonpost.com/news/energy-environment/wp/2017/04/11/d-c-circuit-grants-epas-request-to-delay-smog-rule-case/?utm\\_term=.5ab591cc00c1](https://www.washingtonpost.com/news/energy-environment/wp/2017/04/11/d-c-circuit-grants-epas-request-to-delay-smog-rule-case/?utm_term=.5ab591cc00c1)

<sup>iii</sup> <https://www.epa.gov/stationary-sources-air-pollution/municipal-solid-waste-landfills-new-source-performance-standards>

<sup>iv</sup> <https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry/amendments-new-source-performance-standards>

<sup>v</sup> Executive Order 13783: <https://www.federalregister.gov/documents/2017/03/31/2017-06576/promoting-energy-independence-and-economic-growth>

<sup>vi</sup> Bureau of Land Management Federal Register notification dated June 15, 2017 (82 FR 27430) regarding administrative postponement of certain compliance deadlines in BLM methane rule:

<https://www.federalregister.gov/documents/2017/06/15/2017-12325/waste-prevention-production-subject-to-royalties-and-resource-conservation-postponement-of-certain>

<sup>vii</sup> Bureau of Land Management Federal Register notice dated October 5, 2017, proposing to suspend or delay certain requirements in the 2016 BLM methane rule:

<https://www.federalregister.gov/documents/2017/10/05/2017-21294/waste-prevention-production-subject-to-royalties-and-resource-conservation-delay-and-suspension-of>

<sup>viii</sup> <https://www.federalregister.gov/documents/2017/03/07/2017-04458/notice-regarding-withdrawal-of-obligation-to-submit-information>

<sup>ix</sup> EPA news release dated March 15, 2017, announcing a notice of intent (82 FR 14671) published March 15, 2017, to reconsider its mid-term evaluation of the standards’ feasibility: <https://www.epa.gov/newsreleases/epa-reexamine-emission-standards-cars-and-light-duty-trucks-model-years-2022-2025>



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<sup>x</sup> National Highway Traffic and Safety Administration web page on corporate average fuel economy: <https://www.nhtsa.gov/laws-regulations/corporate-average-fuel-economy>

<sup>xi</sup> NHTSA Federal Register notice, “Reconsideration of final rule; request for comments,” July 12, 2017. <https://www.federalregister.gov/documents/2017/07/12/2017-14526/civil-penalties>

<sup>xii</sup> The Washington Post, April 7, 2017: [https://www.washingtonpost.com/pb/news/energy-environment/wp/2017/04/07/trumps-epa-makes-first-moves-on-obama-era-smog-protections/?outputType=accessibility&nid=menu\\_nav\\_accessibilityforscreenreader](https://www.washingtonpost.com/pb/news/energy-environment/wp/2017/04/07/trumps-epa-makes-first-moves-on-obama-era-smog-protections/?outputType=accessibility&nid=menu_nav_accessibilityforscreenreader). See also court order: [http://www.environmentallawandpolicy.com/wp-content/uploads/sites/186/2017/04/epa2017\\_0722.pdf](http://www.environmentallawandpolicy.com/wp-content/uploads/sites/186/2017/04/epa2017_0722.pdf)

<sup>xiii</sup> <http://www.naco.org/blog/14-states-other-stakeholders-sue-us-epa-over-delayed-ozone-designations>

<sup>xiv</sup> <https://www.epa.gov/ozone-designations/additional-designations-2015-ozone-standards>

<sup>xv</sup> Columbia Law School Climate Law Blog, June 2017 Updates to the Climate Case Charts: <http://blogs.law.columbia.edu/climatechange/2017/06/07/june-2017-updates-to-the-climate-case-charts/>

<sup>xvi</sup> <https://www.epa.gov/visibility/epas-decision-revisit-aspects-2017-regional-haze-rule-revisions>

<sup>xvii</sup> April 7, 2017, EPA court filing with the U.S. Court of Appeals for the D.C. Circuit, reported in The Washington Post on April 18, 2017: [https://www.washingtonpost.com/news/energy-environment/wp/2017/04/18/epa-seeks-delay-over-rule-curbing-coal-plants-toxic-pollution/?utm\\_term=.40764a0319bb](https://www.washingtonpost.com/news/energy-environment/wp/2017/04/18/epa-seeks-delay-over-rule-curbing-coal-plants-toxic-pollution/?utm_term=.40764a0319bb).

Court filing available at: <http://www.environmentallawandpolicy.com/wp-content/uploads/sites/186/2017/04/mats.pdf>

<sup>xviii</sup> <http://www.environmentallawandpolicy.com/2017/04/d-c-circuit-delays-ssm-rule-litigation/>

<sup>xix</sup> <https://federalregister.gov/d/2017-17514>

<sup>xx</sup> See Federal Register <https://www.federalregister.gov/documents/2017/10/10/2017-21396/grid-resiliency-pricing-rule>

<sup>xxi</sup> <https://www.epa.gov/wotus-rule>

<sup>xxii</sup> Unified Agenda of Regulatory and Deregulatory Actions: <https://www.reginfo.gov/public/do/eAgendaMain>

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<sup>xxiii</sup> Executive Order, “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule,” February 28, 2017. <https://www.whitehouse.gov/the-press-office/2017/02/28/presidential-executive-order-restoring-rule-law-federalism-and-economic>

<sup>xxiv</sup> Joint Army Corps of Engineers/EPA Federal Notice extending public comment period, August 22, 2017. <https://www.epa.gov/sites/production/files/2017-08/documents/2017-17739.pdf>

<sup>xxv</sup> According to the BLM web page on the hydraulic fracturing rule, “The BLM’s proposal supports Administration priorities that: require agencies to seek ways to reduce the costs of regulatory compliance (Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs), and; require the Secretary to review four specific rules, including the BLM’s 2015 final rule on hydraulic fracturing (Executive Order 13783, Promoting Energy Independence and Economic Growth). See <https://www.blm.gov/node/13073>.

<sup>xxvi</sup> BLM web page: <https://www.blm.gov/node/13073>. See also Unified Agenda of Regulatory and Deregulatory Actions: <https://www.reginfo.gov/public/do/eAgendaMain>

<sup>xxvii</sup> <https://www.epa.gov/eg/steam-electric-power-generating-effluent-guidelines-2015-final-rule>

<sup>xxviii</sup> EPA web page on Risk Manage Program Amendments: <https://www.epa.gov/rmp/final-amendments-risk-management-program-rmp-rule#rule-summary>

<sup>xxix</sup> <https://www.epa.gov/ingredients-used-pesticide-products/chlorpyrifos>

<sup>xxx</sup> <https://www.epa.gov/safepestcontrol/food-and-pesticides#regulate>

<sup>xxxi</sup> <https://www.federalregister.gov/documents/2016/11/17/2016-27552/chlorpyrifos-tolerance-revocations-notice-of-data-availability-and-request-for-comment>

<sup>xxxii</sup> The January 4, 2017, certification rule (82 FR 952) is being delayed in accordance with the Presidential directives as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled “Regulatory Freeze Pending Review,” and the principles identified in the April 25, 2017 Executive Order “Promoting Agriculture and Rural Prosperity in America.” See delay notice (82 FR 25529)

<https://www.federalregister.gov/documents/2017/06/02/2017-11458/pesticides-certification-of-pesticide-applicators-delay-of-effective-date>

<sup>xxxiii</sup> <https://earthjustice.org/news/press/2018/trump-administration-guts-safeguards-for-nation-s-no-2-toxic-pollution-threat>

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<sup>xxxiv</sup> Unified Agenda of Regulatory and Deregulatory Actions, July 20, 2017.  
<https://www.reginfo.gov/public/do/eAgendaMain>