



Info Alert

National Conference of State Legislatures Office of State-Federal Relations

President Donald Trump Issues Energy Independence Executive Order

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On March 28, President Donald Trump issued an Executive Order (EO) entitled ‘[Promoting Energy Independence and Economic Growth](#),’ aimed at “promoting [the] clean and safe development of our countries vast energy resources, while at the same time avoiding regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation.” Many of the actions described in the EO either begin a formal administrative process to review and potentially revise regulations, or rescind climate related actions taken by President Barack Obama.

Review of the Clean Power Plan

Of most significance to states, the EO directs the Environmental Protection Agency (EPA) to begin the process of reviewing, and potentially revising or rescinding, its [Clean Power Plan](#) Final Rule (CPP), as well as all related rules and agency actions. Should EPA decide to take any action, such action would be accomplished via the administrative procedures act and would likely take many months, if not years to complete the formal process.

[Unveiled](#) in 2015, CPP aims to reduce greenhouse gas (GHG) emissions of carbon dioxide that result from the generation of electricity from existing units by imposing varying carbon dioxide emission limits on states. CPP has a [long history of litigation](#)—from its initial draft to the final regulation. Immediately after the final rule was published in October 2015, 27 states [petitioned](#) the U.S. Court of Appeals of the District of Columbia for an emergency stay. Challengers to the rule believe it is in “excess of the agency’s statutory authority,” and “goes beyond the bounds set by the U.S. Constitution. Supporters of the rule [believe](#) that “absent meaningful federal regulation...state intervenors may be unable to obtain needed reductions in carbon-dioxide emissions from existing power plants located in other states.” In February 2016, the Supreme Court of the United States (SCOTUS) [stayed](#) the implementation of the CPP pending judicial review by the D.C. Circuit, which consolidated 38 separate petitions into [West Virginia, et. al. v. EPA](#). On Sept. 27, 2016, the D.C. Circuit Court of Appeals, sitting en banc, heard oral arguments to the case and is expected to issue a decision is expected shortly, although many analysts and experts anticipate that the case will be appealed to SCOTUS, regardless of which side prevails.

The president's action also directs EPA to rewrite a similar [rule](#) which sets carbon dioxide emission standards for new power plants. Twenty-four states are currently challenging the existing final rule in [North Dakota et. al. v. EPA](#), with oral arguments scheduled for April 17, 2017. The EO directs the Attorney General to request all legal proceedings governing both rules be held in abeyance, or remanded, pending the completion of administrative review.

Review of Past Federal Agency Actions

In addition to the provisions concerning CPP, the EO also addresses some specific federal agency actions taken during the last administration. The EO lifts [a moratorium on new coal mining leases](#) previously enacted by the Department of Interior in January 2016 so the department could review its existing leasing program in order to “identify and evaluate potential reforms to the federal coal program,” ensuring that it provides a fair return to taxpayers and reflects the associated “impacts on the environment.” The EO also directs the Bureau of Land Management (BLM) to review both its 2015 [hydraulic fracturing final rule](#) which updated 30-year-old regulations for oil and gas fracturing on federal, and tribal lands, as well as its [2016 methane venting and flaring rule](#) aimed at reducing methane emissions and “wasted” gas from public and tribal lands. Further, EPA is directed to review [a 2016 final rule](#) which set new emission standards for the oil and natural gas sector for new, reconstructed and modified sources.

Rescinding Federal Climate Change Guidance

The EO rescinds [guidance](#) issued by the White House Council on Environmental Quality in August 2016 regarding how federal agencies should consider climate change when evaluating proposed federal actions in accordance with the National Environmental Policy Act (NEPA). Additionally, the EO rescinds guidance concerning the calculation of the [social cost of carbon](#) (SCC), which was used by federal agencies when calculating the impacts, costs and benefits, of a particular agency action. The EO also [rescinds](#) a March 2014 presidential report detailing the nation's climate action plan strategy to reduce methane emissions as well as [EO 13653](#) issued in November 2013 which aimed to boost federal agency coordination on climate resiliency. The EO also revoked three presidential memoranda:

- [Power Sector Carbon Pollution Standards](#), issued in June 2013 and directed EPA to issue a new proposal on their notice of proposed rulemaking, “Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units,” and to issue regulations addressing carbon pollution from modified, reconstructed and existing power plants.
- [Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment](#), issued in November 2015, which directed agencies to avoid and minimize harmful effects to natural resources caused by disturbing activities, and to adopt an approach for “avoidance and minimization of, and compensatory mitigation for, the impacts of their activities and the projects they approve,”; and
- [Climate Change and National Security](#), issued in September 2016, which established a policy that the impacts of climate change must be considered in the development of national security-related doctrine, policies, and plans.

Next Steps

Finally, the EO directs all federal agencies to immediately identify, and “appropriately suspend, revise, or rescind,” all rules which inhibit domestic energy production or use. The order gives each agency 120 days to submit its initial review to the Office of Management and Budget detailing specific recommendations to “alleviate, or eliminate aspects of agency actions that burden domestic energy production.”

Separate from this EO, President Trump has also delayed a number of energy efficiency rules previously issued by the Department of Energy (DOE). Final rules for [ceiling fan efficiency](#) and certain [federal residential building energy standards](#) are delayed until Sept. 30 and test procedures associated with [compressors](#), [central air conditioners](#), and [walk-in coolers and freezers](#) have been postponed until late June/ early July.

The EO also comes two weeks after the Office of Management and Budget [released](#) the President’s 2018 Budget Blueprint. This “skinny budget” requests \$5.7 billion for the EPA, a \$2.6 billion, or 31 percent decrease, from 2017; \$28.0 billion for DOE, a \$1.7 billion, or 5.6 percent, decrease from 2017. Proposed cuts to DOE include funding elimination for the State Energy Program which provides direct federal funds to states, while cuts to EPA include a \$500 million reduction for Categorical Grants, and a \$330 million reduction for the Hazardous Substance Superfund Account. Additionally, DOI’s funding for the Abandoned Mine Land Grant Program is eliminated.

For any further questions or concerns on the [executive order](#), or the Budget Blueprint, please contact NCSL staff [Ben Husch](#) (202-624-7779) or [Kristen Hildreth](#) (202-624-3597).