



Information Alert

State-Federal Relations Division

President Trump Orders EPA to Review Clean Air Act Programs

April 13, 2018

On April 12, President Donald Trump issued a presidential memorandum, [“Promoting Domestic Manufacturing and Job Creation—Policies and Procedures Relating to Implementation of Air Quality Standards.”](#) The memorandum directs Environmental Protection Agency (EPA) Administrator Scott Pruitt to review and make changes to the Clean Air Act (CAA)’s National Ambient Air Quality Standards (NAAQS) and Regional Haze Programs to reduce “unnecessary barriers that are holding back manufacturing and business growth.”

Under the CAA, EPA establishes NAAQS for six [criteria air pollutants—carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter and sulfur dioxide](#)—which the agency must review every five years. Upon release of new standards, new planning, permitting and other requirements for affected states, localities, and regulated entities must take place. Under the CAA, states with areas that do not meet revised standards must submit State Implementation Plans (SIPs) showing how they will comply. If a state’s SIP is not approved, a Federal Implementation Plan (FIP) is established to reach compliance. Also under the CAA, EPA has established a [Regional Haze Program](#), which requires states to submit plans that cover 10-year periods and to demonstrate “reasonable progress” toward improving and maintaining visibility in certain national parks and wilderness areas such as the Grand Canyon, the Great Smokies and Shenandoah. Similar to the NAAQS program, states are required to submit SIPs, however, if disapproved, FIPs are put in place.

It is important to note that while the memorandum does not supersede the CAA, it does direct EPA to complete a full evaluation of the agency’s existing rules, guidance, memoranda, and other public documents related to the implementation of NAAQs. The agency must determine if they should be “revised or rescinded” to ensure efficient and cost-effective implementation of the programs, and to “reduce unnecessary impediments to new manufacturing and business.”

Directed actions include:

- Processing of SIPs within 18 months of submission.

- Working in coordination with states to review existing FIPs for the Regional Haze Program, and to replace them, at the request of affected states, with SIPs.
- Processing, within one year, preconstruction permit applications for all areas of which EPA has direct permitting authority under the CAA.

The memo also directs EPA to appropriately, and in a timely manner, address demonstrations or petitions relating to emissions beyond the control of state or local air agencies such as from international emissions, and background concentrations and sources of pollution including wildfires, seismic activities, and other “exceptional” events. EPA is directed to provide flexibility to states with regard to identifying and achieving offsets.

In future NAAQS reviews, EPA is expected to remain transparent, follow the advice and guidance from its CAA Scientific Advisory Committee, and issue and implement regulations and guidance in a timely manner. The agency is expected to ensure that monitoring and modeling data is used appropriately in designations, permitting decisions and demonstrations.

The issuance of the presidential memorandum comes only a couple of days following a Senate Environment and Public Works Subcommittee on Clean Air and Nuclear Safety hearing titled [“Cooperative Federalism Under the Clean Air Act: State Perspectives.”](#) in which several witnesses noted their disdain for how EPA operates programs under the CAA. While a clearly divisive issue across states, individuals present noted challenges associated with the Regional Haze Program stating that EPA’s lack of meaningful coordination with states in previous administrations led to a lengthy and costly process, creating a burden on already strained state coffers as years of work on SIPs were pushed aside and replaced with a FIP.

For any further questions or concerns regarding this Information Alert, please contact NCSL staff [Kristen Hildreth](#) (202-624-3597) or [Ben Husch](#) (202-624-7779).