

Regulatory Tracker for Energy and Environmental Actions

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This regulatory tracker provides brief summaries of important energy and environmental regulations and other policies that the Biden Administration has begun the process of developing or considering revising, including regulations and policies that were issued in the Trump administration that may be rescinded or revised by the Biden administration. While many specific policy changes remain unknown at this point, there are several overarching executive orders and memorandums that will drive the Biden administration's focus for any policy revisions.

- First, on January 20, 2021, the President issued [Executive Order 13990](#), “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis,” directing agencies to review the previous administration's actions to consider whether to suspend, revise, or rescind them. A [fact sheet](#) associated with the executive order identified 104 rulemakings across 10 agencies that the Biden administration planned to review. The order also establishes specific dates for regulatory proposals and other notices that are listed in the summaries below.
- Second, the new administration issued a [regulatory freeze memo](#) that halted all agency action on incomplete Trump rulemakings and instructed agencies to consider postponing the effective dates for rules that were published in the Federal Register prior to 1/20/2021, but were not yet effective by that date.
- Third, EPA issued a [memo](#) on 1/21/2021 that requested DOJ to seek and obtain stays or abeyances of proceedings in pending litigation on all Trump administration rulemakings.
- Fourth, the President issued [Executive Order 14008](#), “Tackling the Climate Crisis at Home and Abroad” with additional directives that may result in changes to agency rules. The executive order also established specific dates for regulatory proposals and other notices that are listed in the summaries below.
- Fifth, the Biden Administration's Spring 2021 [regulatory agenda](#), the first for the administration, was released on 6/11/2021, which lays out their planned regulatory actions for the ensuing twelve months.

The summaries give a brief description of each rulemaking and a link to the final regulatory action/notice and a brief description of the current legal/implementation status of the rulemaking. The summaries were sorted into three different tiers, with Tier 1 representing the most important rulemakings. Within each tier, the rulemaking actions/notices are sorted by agency.

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TIER 1 RULES

Army Corps of Engineers

Reissuance and Modification of Nationwide Permits (Army Corps)

In this final rule, the Corps is reissuing and modifying 12 existing NWP and issuing four new NWP. For these 16 NWP, the Corps is also reissuing and modifying the NWP general conditions and definitions. The Corps is not reissuing or modifying the remaining 40 existing NWP or finalizing proposed new NWP E at this time. Those 40 remaining NWP continue to be in effect under the January 6, 2017, final rule and the existing general conditions and definitions in the 2017 final rule continue to apply to those permits. Nationwide Permits (NWP) authorize certain activities under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. The NWP help protect the aquatic environment and the public interest by providing incentives to reduce impacts on jurisdictional waters and wetlands while effectively authorizing activities that have no more than minimal individual and cumulative adverse environmental effects.

Status:

- 1/20/2021 – Identified as under [EO 13990 Review](#) by the new administration.
- 3/15/2021 – Effective date of Trump [final rule](#).
- 2/8/2021 - Environmental groups issued a [notice of intent to sue](#) accusing the Army Corps of not conducting formal Endangered Species Act (ESA) consultations before issuing the Trump final rulemaking.
- 5/3/2021 – Environmental groups file ESA [lawsuit](#) focusing on NWP 12, which pertains to oil and gas pipelines.
- 5/20/2021 – Army Corps issued a technical corrections [final rule](#) on NWP 52 for transmission lines adding that “the discharge must not cause the loss of greater than 1/2 acre of waters of the United States” when placing a transmission line on the bed of a navigable water.

Navigable Waters Protection Rule: Definition of "WOTUS" — Step 2 (EPA, Army Corps)

In this final rule, EPA and the Army Corps define the scope of waters federally regulated under the Clean Water Act. The Navigable Waters Protection Rule is the second step in a comprehensive, two-step process intended to review and revise the definition of “waters of the United States” consistent with the Executive Order signed on February 28, 2017, “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule.” It replaced the rule published on [October 22, 2019](#). This final rule implements the overall objective of the Clean Water Act to restore and maintain the integrity of the nation’s waters by maintaining federal authority over those waters that Congress determined should be regulated by the Federal government under its Commerce Clause powers, while adhering to Congress’ policy directive to preserve States’ primary authority over land and water resources. This final definition increases the predictability and consistency of Clean Water Act programs by clarifying the scope of “waters of the United States” federally regulated under the Act.

Status:

- 6/22/2020 – Effective date of the Trump [final rule](#). It was stayed in Colorado, but effective in the remaining 49 states.
- 1/20/2021 - The rule was placed under [EO 13990 Review](#) by the new administration.

- 1/29/2021 - EPA filed a [joint motion](#) in the U.S. District Court for the District of Maryland with environmental groups to put the rule in abeyance while the agencies decide to revise, replace, or repeal the rule.
- 4/26/2021 - On 6/19/2020, the U.S. District Court for the District of Colorado granted a stay on the implementation of the 2020 rulemaking, but on 3/2/2021 the 10th Circuit Court of Appeals reversed the stay on the [Navigable Waters Protection Rule](#) making the rule effective in all 50 states and in all U.S. territories on 4/26/2021.
- 6/9/2021 - [EPA](#) and [Army Corps](#) announce intent to develop a new rule revising the definition of WOTUS, to be informed by stakeholder engagement process.
- 7/15/2021 - U.S. DC Court granted the motion to remand the Navigable Waters Protection Rule to the agencies without vacatur and dismissed SLLC's lawsuit.

Council on Environmental Quality (CEQ)

Update to Procedural Provisions of the National Environmental Policy Act (CEQ)

CEQ issued this final rule to update its regulations for Federal agencies to implement the National Environmental Policy Act (NEPA). CEQ has not comprehensively updated its regulations since their promulgation in 1978, more than four decades ago. This final rule comprehensively updates, modernizes, and clarifies the regulations to facilitate more efficient, effective, and timely NEPA reviews by Federal agencies in connection with proposals for agency action. The rule will improve interagency coordination in the environmental review process, promote earlier public involvement, increase transparency, and enhance the participation of States, Tribes, and localities. The amendments will advance the original goals of the CEQ regulations to reduce paperwork and delays, and promote better decisions consistent with the national environmental policy set forth in section 101 of NEPA.

Status:

- 9/14/2020 – Effective date of Trump [final rule](#).
- 1/20/2021 - The rule was placed under [EO 13990 Review](#) by the new administration.
- 2/19/2021 – CEQ reinstated the CEQ's 2016 GHG guidance in response to EO 13990 that directed CEQ and OMB to take steps to ensure Federal infrastructure investment reduces GHG emissions.
- 2/8/2021 – DOJ filed a motion to have all five district court cases on the CEQ rule put into abeyance. Four of the motions were granted; however, Judge Jones in the Western District of Virginia case denied the government's motion for a 60-day stay, citing the advanced stage of the briefing. The reply briefs, Chamber business coalition's motion for summary judgment and environmental coalition's lawsuit, were due March 17th. In lieu of filing a reply, DOJ asked the court to remand the rule to the agency without vacatur so that it can reconsider the rule.
- 4/21/2021 – Hearing to be held to consider the environmental groups' motion for voluntary remand and the Chamber business coalition's motion for summary judgment/dismissal of the lawsuit.
- 6/21/2021 – The U.S. District Court for the Western District of Virginia [dismissed the lawsuit](#) by environmental groups challenging a CEQ 2020 rule. The court concluded that the challenge was not ripe. The remaining four lawsuits on the CEQ 2020 rule remain in abeyance.
- 6/29/2021 – [CEQ issues interim final rule](#) moving back by two years the date by which federal agencies are required to propose updates to their NEPA procedures to conform to CEQ's 2020 rule. The interim final rule will allow CEQ more time to revise the 2020 NEPA rule. Over 80 agencies have NEPA procedures on the books, which have not yet been updated to be consistent with the 2020 CEQ rule.

Department of Energy (DOE)

National Environmental Policy Act Procedures for LNG Terminals (DOE)

In this final rule, DOE updated its National Environmental Policy Act (NEPA) implementing procedures pertaining to authorizations issued under the Natural Gas Act (NGA). These changes will improve the efficiency of the DOE decision-making process by exempting certain LNG projects from NEPA review. DOE explained that due to the agency's limited discretionary authority under Section 3 of the NGA, its NEPA decision-making was limited to the impacts associated with the marine transport of the LNG commencing at the point of export. DOE also revised the categorical exclusion for LNG projects to reflect that only elements subject to NEPA review need be reviewed.

Status:

- 1/4/2021 – Effective date of the Trump [final rule](#).

Department of Commerce (DOC)/Department of Interior (DOI)

BSEE Blowout Preventers and Well Control Revisions (DOI)

In this final rule, the Bureau of Safety and Environmental Enforcement (BSEE) revises their existing regulations for well control and blowout preventer systems including revisions to requirements for well design, well control, casing, cementing, real-time monitoring (RTM), and subsea containment. These revisions modify regulations pertaining to offshore oil and gas drilling, completions, workovers, and decommissioning in accordance with Executive and Secretary of the Interior's Orders to ensure safety and environmental protection, while correcting errors and reducing certain unnecessary regulatory burdens imposed under the existing regulations. Accordingly, after thoroughly reexamining the 2016 Blowout Preventer Systems and Well Control final rule (WCR), experiences from the implementation process, and various BSEE policies (notices to lessees, answers to frequently asked questions, and conditions of approval), BSEE's rule amends, revises, or removes certain current regulatory provisions that create unnecessary burdens on stakeholders, while still maintaining safety and environmental protection.

Status:

- 7/15/2019 – Effective date of Trump [final rule](#).
- 12/3/2019 - Environmental groups originally sued in the U.S District Court for the Northern District of California, but the case has been transferred to U.S. District Court for the Eastern District of Louisiana on 11/26/2019. Most recently, the environmental group motion for reconsideration was denied on 12/3/2019.
- 1/20/2021 - The rule is also under [EO 13990 Review](#) by the new administration.
- 5/20/2021 – BSEE announced in a [letter](#) to Healthy Gulf their intention to follow the law on alternative procedures and to enforce the 2016 rule provisions that are still in place following the Trump administration update. In response to the BSEE letter, Healthy Gulf voluntarily dropped their September 2019 lawsuit in the U.S. District Court for DC.
- 6/28/2021 – BSEE [final rule](#) updates the Maximum Daily Civil Penalty Amounts for inflation. BSEE's new penalty rates were adopted by reference from the Office of Natural Resources Revenue ([ONRR](#)) [final rulemaking](#) from 2/3/2021.
- 9/2021 - [EPA's 2021 Spring Agenda](#) states the agency will issue a proposed rule.

Waste Prevention - Royalties and Resource Conservation (DOI)

In this final rule, Bureau of Land Management (BLM) amended their November 18, 2016, rule entitled, "Waste Prevention, Production Subject to Royalties, and Resource Conservation," in a manner that reduces unnecessary compliance burdens, is consistent with the BLM's existing statutory authorities, and re-establishes longstanding requirements that had been replaced. The BLM rescinds the novel requirements pertaining to waste-minimization plans, gas-capture percentages, well drilling, well completion and related operations, pneumatic controllers, pneumatic diaphragm pumps, storage vessels, and leak detection and repair (LDAR). The BLM also revises other provisions

related to venting and flaring and adds provisions regarding deference to appropriate State or tribal regulation in determining when flaring of associated gas from oil wells will be royalty-free.

Status:

- 11/27/2018 – Effective date of the Trump [final rule](#).
- 7/16/2020 – Trump final rule was vacated in a ruling by the U.S. District Court for the Northern District of California. Following the vacatur, BLM appealed to the 10th U.S. Circuit Court of Appeals and filed a brief on 1/14/2021 in the court deferring the decision to the Biden administration.
- 10/8/2020 - In separate litigation on the Obama-era rule, the U.S. District Court for the District of Wyoming vacated the 2016 Obama-era rule leaving two provisions in place: (1) royalty-free use of production (subpart 3178) and royalty rates on competitive leases (subpart 3103.3-1).
- 1/20/2021 – The rule is under [EO 13990 Review](#) by the new administration.
- 6/2021 – [2021 Spring Regulatory Agenda](#) states ANPRM by 6/2021 and proposed rule by 10/2021 to update BLM’s existing rules on venting and flaring.

Oil and Gas Fracking on Federal Lands - Rescind 2015 Rule (DOI)

In this final rule, the Bureau of Land Management (BLM) rescinds the 2015 rule entitled, “Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands.” This final rule returns the affected sections of the regulatory language that existed immediately before the published effective date of the 2015 rule (June 24, 2015), except for changes to those regulations that were made by other rules published between the date of publication of the 2015 rule and now, and the phrase “perform nonroutine fracturing jobs,” which is not restored to the list of subsequent operations requiring prior approval.

Status:

- 12/29/2017 – Effective date of the Trump [final rule](#).
- March 27, 2020 - in *California v. Bureau of Land Management*, the U.S. District Court for the Northern District of California granted the Bureau of Land Management’s (“BLM”) motion for summary judgment, upholding the agency’s decision to rescind, or roll back, hydraulic fracturing regulations finalized during the Obama Administration (the “2015 Rule”). The court’s decision means that oil and gas operators on Federal and Indian lands will not have to comply with the additional requirements in the 2015 Rule.
- 1/20/2021 – The rule is under [EO 13990 Review](#) by the new administration.
- 6/17/2021 - Chamber issues [sign-on letter](#) opposing energy production ban on federal lands and waters.

Oil and Gas Leasing Suspensions/Bans (DOI/White House)

On 1/20/2021, the Department of Interior issued an order to suspend, for 60 days, the issuance of new onshore or offshore oil and gas leases on DOI lands as well as suspend any notices of proposed or final agency action with regard to the National Environmental Policy Act. On the same day, the President issued Executive Order 13990 that revoked the March 2019 construction permit for the Keystone XL pipeline. On 1/27/2021, the President issued an Executive Order that paused all new oil and natural gas leases on public lands and offshore waters pending completion of a review and reconsideration of Federal oil and gas leasing practices.

Status:

- 1/20/2021 – DOI issued [Order 3395](#) to temporarily suspend all new offshore oil and gas leases and any notices under NEPA. The Order was effective until March 20, 2021.
- 1/20/2021 – [EO 13990](#) revoked the 2019 permit for the Keystone XL pipeline making the determination that it would not serve the U.S. nation interest.
- 1/27/2021 - [EO 14008](#) paused all new oil/gas leases on federal lands for further consideration.

- [3/24/2021](#) – Lawsuit *Louisiana v. Biden* filed against EO 14008 by thirteen state AG’s to halt the Biden administration’s ban on new oil and gas leasing on public lands and waters.
- [4/15/2021](#) - Chamber [comments](#) on federal lands and waters leasing ban.
- [4/21/2021](#) – [BLM announced](#) new oil and gas leasing to not be held for the second quarter 2021.
- [4/27/2021](#) – [EO 14008](#) included a section “Conserving Our Nation’s Lands and Waters” requiring DOI, USDA, DOC, and CEQ to submit a report to the White House recommendations to achieve the goal of conserving at least 30 percent of our lands and waters by 2030.
- [6/1/2021](#) - [Interior Department](#) Suspends Oil and Gas Leases in Arctic National Wildlife Refuge
- [6/15/2021](#) – Judge Terry Doughty of the Western District of Louisiana [issues preliminary injunction](#) ordering new oil and gas leasing to restart on federal lands and waters nationwide, holding that plaintiffs had shown a likelihood of success on the merits on their claim that DOI’s leasing pause violated the Mineral Leasing Act (MLA) and Outer Continental Shelf Lands Act (OCSLA).

BLM NEPA Implementing Procedures (DOI)

In this final notice, the Bureau of Land Management establishes a categorical exclusion (CX) as directed by the amendment of the Healthy Forests Restoration Act (HFRA) of 2003 by the Agriculture Improvement Act of 2018. The notice revises BLM policies and procedures for compliance with the National Environmental Policy Act (NEPA), as amended; Executive Order 11514, as amended; Executive Order 12114; and the Council on Environmental Quality’s regulations. These CXs, as well as others established by Congress will be incorporated into the Departmental Manual (DM) and will be added to the Department of the Interior’s Electronic Library of Interior Policies (ELIPS).

Status:

- [6/1/2020](#) – Effective date of Trump final rule.
- [1/20/2021](#) – The final rule is under [EO 13990 Review](#) by the new administration.

ESA Definition of Habitat (DOC, DOI)

In this final rule, DOI’s Fish and Wildlife Service (FWS) and DOC’s National Marine Fisheries Service (NMFS) add a definition of “habitat” to their regulations that implement section 4 of the Endangered Species Act of 1973, as amended. This rulemaking responds to Supreme Court case law regarding the designation of critical habitat and provides transparency, clarity, and consistency for stakeholders.

Status:

- [1/15/2021](#) – Effective date of the Trump [final rule](#).
- [1/14/2021](#) - A [lawsuit](#) was filed by environmental groups in U.S. District Court of Hawaii challenging the rule.
- [1/20/2021](#) - The final rule is also under [EO 13990 Review](#) by the new administration.
- [6/4/2021](#) – [DOI and NMFS announced](#) plans to [rescind the definition of habitat](#) rule, stating that a regulatory definition is not required to designate critical habitat in compliance with a 2018 Supreme Court decision ([Weyerhaeuser Co. v. USFWS](#)).

ESA Regulations Listing Species and Designating Critical Habitat (DOC, DOI)

In this final rule, DOI’s Fish and Wildlife Service (FWS) and the DOC’s National Marine Fisheries Service (NMFS), revise portions of their regulations that implement section 4 of the Endangered Species Act of 1973, as amended. The revisions to the regulations clarify, interpret, and implement

portions of the Act concerning the procedures and criteria used for listing or removing species from the Lists of Endangered and Threatened Wildlife and Plants and designating critical habitat.

Status:

- 9/26/2019 – Effective date of the Trump [final rule](#).
- 1/20/2021 - The final rule is under [EO 13990 Review](#) by the new administration.
- 2/9/2021 - Most recently, DOJ filed a motion on 2/9/2021 to stay court proceedings for 60 days on three cases brought by environmental groups and California ([Center Bio. Div.](#), [Animal Leg. Def. Fund](#), and [California](#)) in the U.S. District Court for the Northern District of California.
- 6/4/2021 - [FWS announces](#) intention to reinstate prior language, reaffirming that “possible economic or other impacts” are not considered in listing decisions.

ESA Revisions for Designating Critical Habitat (DOI)

In this final rule, the U.S. Fish and Wildlife Service (FWS) amends portions of their regulations that implement section 4 of the Endangered Species Act of 1973, as amended. The revisions set forth a process for excluding areas of critical habitat under section 4(b)(2) of the Act, which mandates their consideration of the impacts of designating critical habitat and permits exclusions of particular areas following a discretionary exclusion analysis. These regulations outline when and how the Service will undertake an exclusion analysis, including identifying a non-exhaustive list of categories of potential impacts that FWS will consider. This rule codifies some current and modifications to agency practices and responds to applicable Supreme Court case law. The intended effect of this rule is to provide greater transparency and certainty for the public and stakeholders.

Status:

- 1/19/2021 – Effective date of the Trump [final rule](#).
- 1/14/2021 - Environmental groups filed a [lawsuit](#) on 1/14/2021 in the U.S. District Court for the District of Hawaii seeking an injunction to halt the implementation of the rule.
- 1/20/2021 - The rule is also under [EO 13990 Review](#) by the new administration
- 6/4/2021 - [FWS announced](#) plans to rescind this regulation in its entirety and revert to implementation of the joint FWS/NMFS regulations at 50 CFR 424.19 and the joint 2016 policy on 4(b)(2) exclusions.

FWS Regulations Governing Take of Migratory Birds (DOI)

In this final rule, the U.S. Fish and Wildlife Service (FWS) defines the scope of the Migratory Bird Treaty Act (MBTA) as it applies to conduct resulting in the injury or death of migratory birds protected by the Act. The FWS determines that the MBTA’s prohibitions on pursuing, hunting, taking, capturing, killing, or attempting to do the same, apply only to actions directed at migratory birds, their nests, or their eggs. The rule clarifies that conduct resulting in unintentional (incidental) injury or death of migratory birds is not prohibited under the MBTA. The rule provides regulatory certainty to the public, industries, states, tribes and other stakeholders about implementation of the MBTA and best practices for conservation.

Status:

- 1/7/2021 – Trump [final rule](#) published in Federal Register with original effective date of 2/8/2021. Final rule codified a [2017 DOI Solicitor Opinion](#).
- 1/14/2021 - In the courts, [environmental groups sued](#) the Trump administration to halt the rule’s implementation. The Trump administration’s final rule was to go into effect on 2/8/2021, but the effective date was delayed until 3/8/2021 by the incoming Biden administration.
- 1/20/2021 – The rule is under [EO 13990](#) review by the new administration.

- 3/8/2021 - [FWS rescinded](#) the 2017 DOI Solicitor Opinion, which had concluded that incidental take was not prohibited under the MBTA.
- 3/10/2021 - FWS submitted an MBTA proposed rulemaking to OMB for White House review, which is expected to rescind the Trump administration final rule.
- 5/7/2021 - [FWS proposed](#) to revoke the 1/7/2021 Trump final regulation. Comment period on the proposed rule closed on 6/7/2021.
- 6/7/2021 - Chamber [comments](#) in opposition to revocation of Trump final rule.
- 10/2021 - [DOI's 2021](#) Spring Agenda states the agency will issue a final rule.

Environmental Protection Agency (EPA)

Accidental Release Risk Management Plan (EPA)

In this final rule, EPA revises the regulations designed to reduce the risk of accidental releases of hazardous chemicals. These regulations are part of the EPA's Risk Management Program (RMP), which the Agency established under authority in the Clean Air Act and amended on January 13, 2017. After a process of reconsidering several parts of the 2017 rule, EPA concluded that a better approach is to improve the performance of a subset of facilities by achieving greater compliance with RMP regulations instead of imposing additional regulatory requirements on the larger population of facilities that is generally performing well in preventing accidental releases. For this and other reasons, EPA rescinded some of the 2017 amendments that were unreasonable or not practicable relating to safer technology and alternatives analyses, third-party audits, incident investigations, information availability, and several other minor regulatory changes. EPA also modified regulations relating to local emergency coordination, emergency response exercises, and public meetings.

Status:

- 12/19/2019 – Effective date of the Trump [final rule](#).
- 12/19/2019 – Environmental groups filed petitions in *Air Alliance v. EPA* in the U.S. Court of Appeals for the DC Circuit challenging the Trump final rule. The case is currently in abeyance.
- 9/4/2020 – Separately, [EPA denied](#) three petitions for reconsideration filed [10/26/2020](#), [10/30/2020](#), [11/3/2020](#).
- 6/16 and 7/8/2021 – [The EPA held](#) virtual public listening sessions seeking public input on its review of the 2019 RMP rule. Chamber testimony can be found [here](#).

Affordable Clean Energy (ACE) Rule - Repeal of Clean Power Plan (EPA)

In this final rule, EPA finalizes three separate and distinct rulemakings. First, EPA repeals the Clean Power Plan (CPP) because the Agency determined that the CPP exceeded the EPA's statutory authority under the Clean Air Act (CAA). Second, EPA finalizes the Affordable Clean Energy rule (ACE), consisting of Emission Guidelines for Greenhouse Gas (GHG) Emissions from Existing Electric Utility Generating Units (EGUs) under CAA section 111(d), that will inform states on the development, submittal, and implementation of state plans to establish performance standards for GHG emissions from certain fossil fuel-fired EGUs. In ACE, the Agency is finalizing its determination that heat rate improvement (HRI) is the best system of emission reduction (BSER) for reducing GHG—specifically carbon dioxide (CO₂)—emissions from existing coal-fired EGUs. Third, the EPA finalizes new regulations for EPA and state implementation of ACE and any future emission guidelines issued under CAA section 111(d).

Status:

- 1/19/2021 - The U.S. Court of Appeals for the D.C. Circuit issued a 2-1 opinion vacating the Trump EPA's [ACE final rule](#) stating that the CAA does not constrain EPA to “inside the fence” mechanisms to achieve GHG emissions reductions from the power sector.
- 1/20/2021 - This rule is under [EO 13990 Review](#) by the new administration.

- 2/12/2021 - [EPA filed a motion](#) to partially stay the D.C. Circuit’s mandate, which dictates when EPA would be required to implement the court’s order. The motion stated that EPA understands the Court’s decision as leaving neither the CPP nor ACE rules in effect, and thus no EPA regulation in place with respect to greenhouse gas emissions from power plants. The motion also states that EPA is therefore obligated to propose and promulgate a new rulemaking under Clean Air Act Section 111(d) to replace such regulations.
- 2/22/2021 - The D.C. Circuit granted EPA’s unopposed motion for a partial stay of issuance of the mandate and requested status reports from EPA at 90-day intervals.
- 4/29/2021 - [19 states led](#) by WV petitioned the Supreme Court to review EPA’s authority to set standards “reshaping the nation’s electricity grids and unilaterally decarbonizing virtually any sector of the economy,” arguing EPA does not have those “expansive” powers.
- 4/2021-6/2021 - Several groups filed actions in the case including four briefs in support of petition for a writ of certiorari before the Supreme Court from the State of North Dakota, Westmoreland Mining Holdings, State of WV, and the North American Coal Corp. Briefs were filed in support of the writ of certiorari from Basin Electric Power Cooperative, National Mining Association, and America’s Power. Amicus briefs were also submitted by the State of Kentucky and the New England Legal Foundation. The government’s brief was due 7/6/2021.

Aircraft Greenhouse Gas Emissions Standards (EPA)

In this final rule, EPA adopts greenhouse gas (GHG) emission standards applicable to certain classes of engines used by certain civil subsonic jet airplanes with a maximum takeoff mass greater than 5,700 kilograms and by certain civil larger subsonic propeller-driven airplanes with turboprop engines having a maximum takeoff mass greater than 8,618 kilograms. These standards are equivalent to the airplane carbon dioxide (CO₂) standards adopted by the International Civil Aviation Organization (ICAO) in 2017 and apply to both new type design airplanes and in-production airplanes. The standards meet the EPA’s obligation under section 231 of the Clean Air Act (CAA) to adopt GHG standards for certain classes of airplanes as a result of the 2016 GHG aircraft endangerment finding for six well-mixed GHGs. EPA is adopting the fuel efficiency-based metric established by ICAO, which will control both the GHGs emitted by airplane engines, CO₂, and N₂O.

Status:

- 1/11/2021 – Effective date of Trump [final rule](#).
- 1/15/2021 - Petitions for review filed in D.C. Circuit by state AGs on [1/15/2021](#) and also by environmental groups on [1/15/2021](#).
- 1/20/2021 - This rule is under [EO 13990 Review](#) by the new administration.
- 2/17/2021 – D.C. Circuit granted EPA’s motion to hold cases in abeyance while EPA reviews the standards pursuant to Executive Order 13990. EPA must file status reports every 90 days.

NSPS: GHG Contribution Finding - Electric Utilities and Other Sources (EPA)

In this final rule, EPA establishes a significant contribution finding (SCF) for purposes of regulating source categories for greenhouse gas (GHG) emissions, under section 111(b) of the Clean Air Act (CAA) for electric generating units (EGUs), and in doing so, reaffirms that EGUs remain a listed source category. EPA reach that conclusion by articulating a framework under which source categories are considered to contribute significantly to dangerous air pollution due to their GHG emissions if the amount of those emissions exceeds 3 percent of total U.S. GHG emissions. EPA is applying the 3-percent threshold to the EGU source category to demonstrate that GHG emissions from the EGU source category would contribute significantly to dangerous air pollution. While EGU GHG emissions exceed this threshold by a sufficient magnitude to warrant an SCF without more ado, the EPA has also analyzed EGU emissions under a secondary criteria framework, which also demonstrates the propriety of the SCF.

Status:

- 1/13/2021 – EPA published the Trump [final rule](#) with a 3/15/2021 effective date.
- 1/19/2021 - Petitions for review filed in D.C. Circuit by environmental groups on [1/19/2021](#) and by state AGs on [1/19/2021](#).
- 3/17/2021 – In an unopposed motion, DOJ filed a motion on behalf of EPA requesting a voluntary vacatur and remand of the rule in the *State of California et al v. EPA* case in the U.S. Court of Appeals for the District of Columbia Circuit. In a declaration attached to the motion, EPA stated it needs to “develop more particularized estimates of greenhouse gases emission for various sources before proposing a significance threshold or criteria.”
- 4/5/2021 – The U.S. Court of Appeals for the District of Columbia Circuit vacated the rule and remanded the rule back to EPA, setting the stage for the Biden administration’s reconsideration and revision of the rulemaking.

NAAQS Review for Ozone (EPA)

Based on the Environmental Protection Agency’s (EPA’s) review of the air quality criteria and the national ambient air quality standards (NAAQS) for photochemical oxidants including ozone (O₃), the EPA is retaining the current standards, without revision. EPA is required by the Clean Air Act to review the NAAQS standards every five years. EPA last updated the ozone NAAQS in 2015, when the agency lowered the standards from 75 ppm to 70 ppm.

Status:

- 12/31/2020 – Effective date of Trump final action.
- 1/19/2021 - Petition for review filed in D.C. Circuit by fifteen state AGs on [1/19/2021](#) claiming the rule does not adequately protect public health; environmental groups filed a separate lawsuit on 2/11/2021 claiming the EPA failed to consider the latest science; Center for Biological Diversity sued EPA on 2/26/2021 for not conducting an Endangered Species Act (ESA) review as part of the Trump administration’s ozone NAAQS review.
- 3/15/2021 – Fifteen states re-petition EPA for reconsideration of review of the ozone NAAQS.
- 5/21/2021 – EPA filed a motion to continue to hold in abeyance the consolidated lawsuits for a period of 90 days.
- 6/01/2021 – Court holds cases in abeyance, directs parties to file motions to govern future proceedings by 8/19/2021.

NAAQS Review for Particulate Matter (EPA)

Based on EPA’s review of the air quality criteria and the national ambient air quality standards (NAAQS) for particulate matter (PM), the Administrator has reached final decisions on the primary and secondary PM NAAQS. With regard to the primary standards meant to protect against fine particle exposures (i.e., annual and 24-hour PM_{2.5} standards), the primary standard meant to protect against coarse particle exposures (i.e., 24-hour PM₁₀ standard), and the secondary PM_{2.5} and PM₁₀ standards, the EPA is retaining the current standards, without revision. EPA is required by the Clean Air Act to review the NAAQS standards every five years. EPA last updated the PM_{2.5} NAAQS in 2012, when the agency lowered the annual primary standard from 15 ug/m³ to 12 ug/m³.

Status:

- 12/18/2020 – Effective date of Trump [final rule](#).
- 1/13/2021 - Petitions for review filed in D.C. Circuit by seventeen state AGs on [1/13/2021](#) and environmental groups on [1/19/2021](#) claiming the rule does not adequately protect public health.
- 5/14/2021 – D.C. Circuit denies Center for Biological Diversity’s request to unconsolidate (or sever) Center for Biological Diversity’s case from the other cases challenging the NAAQS. The Center for Biological Diversity’s case argues that EPA should have conducted an ESA consultation as part of the PM review. EPA had opposed the request for severance.

- 6/1/2021 – D.C. Circuit holds cases in abeyance, directs parties to file motions to govern future proceedings by 8/16/2021.
- 6/10/2021 – [EPA announced that it will reconsider](#) Trump final rule that retained the 2012 PM NAAQS standards. EPA expects to issue a proposed rulemaking in Summer 2022 and a final rule in Spring 2023.
- 6/17/2021 - [EPA announced](#) selections for membership to the Clean Air Scientific Advisory Committee (CASAC) and simultaneously [called for nominations](#) for a supplemental CASAC panel on PM. Nominations for the PM panel are due 7/16/2021.

NESHAP: Utility MATS Rule - Reconsideration of Supplemental Cost Finding and RTR (EPA)

In this final rule, EPA revises its response to the U.S. Supreme Court decision in *Michigan v. EPA*, which held that the EPA erred by not considering cost in its determination that regulation under section 112 of the Clean Air Act (CAA) of hazardous air pollutant (HAP) emissions from coal and oil-fired electric utility steam generating units (EGUs) is appropriate and necessary. After primarily comparing the cost of compliance relative to the benefits of HAP emission reduction from regulation, EPA found that it is not “appropriate and necessary” to regulate HAP emissions from coal- and oil-fired EGUs, thereby reversing the Agency’s previous conclusion under CAA section 112(n)(1)(A). EPA further found that finalizing this new response to *Michigan v. EPA* will not remove the Coal- and Oil-Fired EGU source category from the CAA section 112(c) list of sources that must be regulated under CAA section 112(d) and will not affect the existing CAA section 112(d) emissions standards that regulate HAP emissions from coal- and oil-fired EGUs. EPA also finalized the residual risk and technology review (RTR) conducted for the Coal- and Oil-Fired EGU source category without promulgating any revisions to the MATS rule.

Status:

- 5/22/2020 – Effective date of Trump [final rule](#).
- 6/2020 – Six groups have challenged the final rule including (1) public health and environmental organizations, (2) 20 states and five local governments (3) emission control technology suppliers, (4) state energy utility company, (5) three utility companies, and (6) Westmoreland Mining Holdings. All six cases were consolidated by the D.C Circuit.
- 6/23/2020 - Westmoreland Mining Holdings’ lawsuit challenged the retention of the 2012 MATS standards after EPA revoked the determination that it is “appropriate and necessary” to limit power plant mercury and other hazardous pollutant emissions; while the states/local government agencies petitioned for review on 7/20/2020 contesting the revocation of the “appropriate and necessary finding.”
- 9/28/2020 - The U.S. Court of Appeals for the DC Circuit put the Westmoreland case in abeyance until related litigation regarding the legal basis for the utility HAP standards is resolved.
- 8/2021 – [EO 13990](#) directed EPA to propose suspending, revising, or rescinding the Trump final rule by August 2021. [EPA’s 2021](#) Spring Agenda also states the agency will issue a proposed rule.

NSPS: Liquid Storage Vessels Revisions (EPA)

In this final rule, EPA amends the Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984. The agency finalized specific amendments that would allow owners or operators of storage vessels subject to the Standards of Performance for Volatile Organic Liquid Storage Vessels and equipped with either an external floating roof (EFR) or internal floating roof (IFR) to voluntarily elect to comply with the requirements specified in the National Emission Standards for Storage Vessels (Tanks)—Control Level 2, as an alternative standard, permitting owners/operators of certain large tanks to conduct less cumbersome “in-service”

inspections to avoid draining the tank contents as was previously required by the “out-of-service” inspections.

Status:

- 1/19/2021 – Effective date of Trump [final rule](#).
- 1/20/2021 – Final rule under [EO 13990 Review](#) by new administration.

NSR Project Emissions Accounting (EPA)

In this final rule, EPA revised its major New Source Review (NSR) applicability regulations to clarify when the requirement to obtain a major NSR permit applies to a source proposing to undertake a physical change or a change in the method of operation (i.e., a project) under the major NSR preconstruction permitting programs. Under these programs, an existing major stationary source proposing to undertake a project must determine whether that project will constitute a major modification subject to the major NSR preconstruction permitting requirements by following a two-step applicability test. The first step is to determine if the proposed project would result in a “significant emissions increase” of a regulated NSR pollutant (Step 1). If the proposed project is determined to result in such an increase, the second step is to determine if the project would also result in a “significant net emissions increase” of that pollutant from the source (Step 2). In this action, EPA promulgated revisions to their major NSR applicability regulations to clarify the emissions accounting that both increases and decreases in emissions resulting from a proposed project can be considered in Step 1 of the major NSR major modification applicability test.

Status:

- 11/24/2020 – Effective date of Trump [final rule](#).
- 1/19/2021 – Petitions for review filed in U.S. Court of Appeals for the District of Columbia Circuit by eight state AGs on [1/19/2021](#) and environmental groups on [1/22/2021](#).

Oil and Natural Gas Sector NSPS Reconsideration (EPA)

This action finalizes amendments to the new source performance standards (NSPS) for the oil and natural gas sector. The Environmental Protection Agency (EPA) granted reconsideration on the fugitive emissions requirements, well site pneumatic pump standards, requirements for certification of closed vent systems (CVS) by a professional engineer (PE), and the provisions to apply for the use of an alternative means of emission limitation (AMEL). This final action includes amendments as a result of the EPA’s reconsideration of the issues associated with the above mentioned four subject areas and other issues raised in the reconsideration petitions for the NSPS, as well as amendments to streamline the implementation of the rule. This action also includes technical corrections and additional clarifying language in the regulatory text and/or preamble where the EPA concludes further clarification is warranted.

Status:

- 11/16/2020 – Effective date of Trump [final rule](#).
- 9/15/2020 – Petitions for review filed by 19 state AGs and some cities on [9/15/2020](#) and the Environmental Law and Policy Center on [9/15/2020](#).
- 9/2021 - [EO 13990](#) directed EPA to propose rule reducing methane emissions in the oil and gas sector: “Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Reconsideration.”
- 6/15-6/17/2021 - [EPA held public listening sessions](#) to gather input as the Agency develops a proposed rule to reduce methane and other pollutants from new and existing sources.
- 6/17/2021 - Chamber gave [testimony](#) at RMP public listening session.
- 7/30/2021 – EPA deadline for [submitting public comment](#) on any proposed revisions.
- 10/2021 - [EPA’s Spring 2021 Regulatory Agenda](#) states EPA will issue a proposed rule that reviews the policy and technical rules by 10/2021.

Oil and Natural Gas Sector NSPS Review (EPA)

This action finalizes amendments to the oil and natural gas new source performance standards (NSPS) promulgated in 2012 and 2016. These amendments remove sources in the transmission and storage segment from the source category, rescinds the NSPS (including both the volatile organic compounds (VOC) and methane requirements) applicable to those sources, and separately rescinds the methane-specific requirements of the NSPS applicable to sources in the production and processing segments. Furthermore, EPA adopts an interpretation of Clean Air Act (CAA) section 111 under which the EPA, as a predicate to promulgating NSPS for certain air pollutants, must determine that the pertinent pollutant causes or contributes significantly to dangerous air pollution.

Status:

- 9/14/2020 – Effective date of Trump [final rule](#).
- 9/14/2020 – Petitions for review filed by environmental groups on [9/14/2020](#), filed by 20 state AGs and some cities on [9/14/2020](#), and the Environmental Law and Policy Center on [9/15/2020](#)
- 6/15-6/17/2021 - [EPA held public listening sessions](#) to gather input as the Agency develops a proposed rule to reduce methane and other pollutants from new and existing sources. Chamber gave [testimony](#) at RMP public listening session.
- 7/30/2021 - President Biden signed into law a resolution under the Congressional Review Act (CRA) that disapproved the 2020 EPA Subpart OOOOa rule. The CRA re-institutes the 2016 regulation and the regulation of sources in the “transportation and storage” segment that were dropped from coverage under the 2020 rule.
- 7/30/2021 – EPA deadline for [submitting public comment](#) on any proposed revisions.
- 10/2021 - [EPA’s Spring 2021 Regulatory Agenda](#) states EPA will issue a proposed rule that reviews the policy and technical rules by 10/2021.

Oil and Natural Gas Sector Existing Source Standards (EPA)

Under the Obama Administration, EPA announced plans to reduce emissions of methane from existing sources in the oil and natural gas industry. The agency began with a formal process to require companies operating existing oil and gas sources to provide information to assist in the development of comprehensive regulations to reduce methane emissions.

- 11/10/2016 - EPA issued a final Information Collection Request (ICR) seeking information to help the agency determine how to best reduce methane and other harmful emissions from existing sources in the large and complex oil and natural gas industry.
- 3/2/2017 - EPA withdrew the 2016 information request for the oil and gas industry.
- 9/2021 - Section 2(c) of [EO 13990](#) directs EPA to propose by 9/2021 new regulations to establish comprehensive standards of performance and emission guidelines for methane and volatile organic compound emissions from existing operations in the oil and gas sector, including the exploration and production, transmission, processing, and storage segments.
- 1/2022 - [EO 13990](#) directs EPA to proposed a Federal Implementation Plan in accordance with the Environmental Protection Agency’s “Findings of Failure To Submit State Implementation Plan Revisions in Response to the 2016 Oil and Natural Gas Industry Control Techniques Guidelines for the 2008 Ozone National Ambient Air Quality Standards (NAAQS) and for States in the Ozone Transport Region,” for California, Connecticut, New York, Pennsylvania, and Texas.
- 6/15-6/17/2021 - [EPA held public listening sessions](#) to gather input as the Agency develops a proposed rule to reduce methane and other pollutants from new and existing sources. Chamber gave testimony on 6/17/2021 at the public listening session.
- 7/30/2021 – EPA deadline for [submitting public comment](#) on any proposed revisions.
- 10/2021 – [EPA’s Spring 2021 Regulatory Agenda](#) states EPA will issue a proposed rule that reviews the policy and technical rules by 10/2021.

Revised Cross-State Air Pollution Rule Update (EPA)

This proposed action is taken in response to the D.C. Circuit remand of the Cross-State Air Pollution Rule (CSAPR) Update in Wisconsin v. EPA on September 13, 2019. The CSAPR Update finalized Federal Implementation Plans (FIPs) for 22 states to address their interstate pollution-transport obligations under the Clean Air Act (CAA) for the 2008 ozone National Ambient Air Quality Standards (NAAQS). The D.C. Circuit found that the CSAPR Update, which was published on October 26, 2016, as a partial remedy to address upwind states' obligations prior to the 2018 Moderate area attainment date under the 2008 ozone NAAQS, was unlawful to the extent it allowed those states to continue their significant contributions to downwind ozone problems in downwind states. On the same grounds, the D.C. Circuit also vacated the CSAPR Close-Out in New York v. EPA on October 1, 2019. This proposed rule finds that for 9 of the 21 states for which the CSAPR Update was found to be only a partial remedy (AL, AR, IA, KS, MI, MO, OK, TX, WI), their projected nitrogen oxides (NOx) emissions in the 2021 ozone season and thereafter do not significantly contribute to a continuing downwind nonattainment and/or maintenance problem. This final rule found that for the 12 remaining states (IL, IN, KY, LA, MD, MI, NJ, NY, OH, PA, VA, WV), their projected 2021 ozone season NOx emissions significantly contribute to downwind states' nonattainment and/or maintenance problems for the 2008 ozone NAAQS. EPA's final rule will issue new or amended FIPs for these 12 states to replace their existing CSAPR NOx Ozone Season emissions budgets for electricity generating units (EGUs).

Status:

- 10/15/2020 - Proposed rule issued by Trump EPA with comment period closing on 12/14/2020.
- 3/15/2021 – [Final rule](#) issued by Biden EPA maintaining same policy as in the proposal, although the final rule included estimates using the interim update to the SC-GHG.
- 6/25/2021 – The Midwest Ozone Group (MOG) filed a suit in the U.S. Court of Appeals for the D.C. Circuit challenging the CSAPR final rule. MOG is expected to argue that the rule is too stringent and technically unachievable, while potentially addressing the impacts that other industrial sectors have on NOx emissions.

Section 126(b) Petition from New York (EPA)

This action will respond to a Clean Air Act section 126(b) petition from the state of New York dated March 12, 2018. The petition requests a finding from EPA that emissions from numerous sources in nine states (Illinois, Indiana, Kentucky, Maryland, Michigan, Ohio, Pennsylvania, Virginia and West Virginia) significantly contribute to nonattainment and interfere with maintenance of the 2008 and 2015 ozone national ambient air quality standards in New York State. EPA previously denied the petition in 2019. Petitioners challenged the denial and on July 14, 2020, the D.C. Circuit vacated and remanded EPA's denial. This action addresses the Court's vacatur and remand and provides a revised response to the petition.

Status:

- 10/18/2019 – [Final rule](#) responding to 2018 petition from New York: The Environmental Protection Agency (EPA) is denying a Clean Air Act (CAA or Act) petition submitted by the State of New York on March 12, 2018
- 8/2021 - EPA's 2021 [Spring Agenda](#) states the agency will issue a proposed rule.

Start-Up, Shut-Down, Malfunction SIP Memo (EPA)

Issued on 10/9/2020, EPA's memorandum outlines whether and when it may be permissible for a state to include certain types of provisions governing periods of startup, shutdown, and malfunction (SSM) in state implementation plans (SIPs) developed to assure attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). This updated guidance recognizes that SIPs contain numerous planning requirements that collectively protect the NAAQS. A SIP can adequately provide for attainment and maintenance of the NAAQS, even if the SIP allows exemptions to specific

emission limits for SSM events. The guidance also acknowledges that affirmative defense provisions for malfunction periods may be acceptable because penalties for sudden and unavoidable malfunctions caused by circumstances beyond the control of the owner or operator may not be appropriate.

Status:

- 10/9/2020 – [Final memorandum](#) issued by Trump administration.
- 1/20/2021 – Memorandum is under [EO 13990 Review](#) by the new administration.

Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule – CA Waiver/Preemption (EPA/NHTSA)

In this final rule, EPA and the Department of Transportation’s National Highway Traffic Safety Administration (NHTSA) finalize two actions related to the California waiver and preemption of state fuel economy standards. EPA withdrew the waiver it had previously provided to California for that State’s GHG and ZEV programs under section 209 of the Clean Air Act. NHTSA explained its statutory authority to set nationally applicable fuel economy standards that made explicit that those State programs would also be preempted under NHTSA’s authorities.

Status:

- 11/26/2019 – Effective date of the Trump [final rule](#).
- 3/4/2021 – DOT submitted a proposed rule for White House review of CAFE preemption.
- 4/2021 - [EO 13990](#) directs EPA/DOT to propose a rule on “The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program”
- 4/28/2021 – EPA announced a notice [to reconsider](#) the Trump final rule. [The agency](#) held a virtual public hearing on June 2, and the public comment period was open until July 6.

Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule - Standards (EPA/NHTSA)

In this final rule, EPA and NHTSA amend and establish carbon dioxide emissions and fuel economy standards. Specifically, EPA amended the carbon dioxide emissions standards for model years 2021 and later, and NHTSA amended fuel economy standards for model year 2021 and setting new fuel economy standards for model years 2022–2026. The standards set by this action apply to passenger cars and light trucks to ensure One National Program for automobile fuel economy and carbon dioxide emissions standards.

Status:

- 6/29/2020 – Effective date of the Trump [final rule](#).
- 4/4/2021 – U.S. Court of Appeals for the District of Columbia Circuit granted EPA’s request to hold in abeyance the state AGs and environmental groups’ consolidated lawsuits over the final rule.
- 5/05/2021 – [US Dept. of Transportation](#) issued a notification of regulatory review. Comments open for review until June 4.
- 7/2021 – [EO 13990](#) directed EPA/NHTSA to issue a proposed rule by 7/2021 to tighten the GHG/fuel economy standards.
- 6/2021 - EPA Regulatory Agenda [projects](#) EPA to release a proposed rule in July 2021 and a final rule in December 2021.

TSCA Procedures for Chemical Risk Evaluation (EPA)

As required under section 6(b)(4) of the Toxic Substances Control Act (TSCA), EPA is issued this final rule to establish a process for conducting risk evaluations to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, without consideration of costs or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation, under the conditions of use. This process incorporates the

science requirements of the amended statute, including best available science and weight of the scientific evidence. Risk evaluation is the second step, after Prioritization, in a new process of existing chemical substance review and management established under recent amendments to TSCA. This rule identifies the steps of a risk evaluation process including: scope, hazard assessment, exposure assessment, risk characterization, and finally a risk determination. This process will be used for the first ten chemical substances undergoing evaluation from the 2014 update of the TSCA Work Plan for Chemical Assessments (to the maximum extent practicable). Chemical substances designated as High-Priority Substances during the prioritization process and those chemical substances for which EPA has initiated a risk evaluation in response to a manufacturer request, will always be subject to this process. The final rule also includes the required “form and criteria” applicable to such manufacturer requests.

Status:

- 9/18/2017 – Effective date of Trump [final rule](#).
- 1/20/2021 – Final rule is under [EO 13990 Review](#) by the new administration.
- 6/28/2021 – EPA issued a TSCA Section 8(a)(7) reporting and recordkeeping requirements [proposed rule](#) for Perfluoroalkyl and Polyfluoroalkyl substances. Comments are due 8/27/2021.
- 7/27/2021 - EPA is holding a public webinar on the development of a proposed rule to collect data to inform the TSCA risk evaluation and risk management process.

TSCA: PFAS Significant New Use Rule (EPA)

In this final rule, EPA amended the significant new use rule (SNUR) under TSCA for long-chain perfluoroalkyl carboxylate (LCPFAC) chemical substances that were proposed on January 21, 2015. The agency also amended the SNUR for perfluoroalkyl sulfonate chemical substances and made inapplicable the exemption for persons who import a subset of LCPFAC chemical substances as part of surface coatings on articles. This final rule requires persons to notify EPA at least 90 days before commencing the manufacture (including import) or processing of these chemical substances for the significant new uses described in the notice. The required significant new use notification initiates EPA’s evaluation of the conditions of use associated with the significant new use. As with any SNUR, this final rule excludes ongoing uses.

Status:

- 9/5/2020 – Effective date of the Trump [final rule](#).
- 6/2021 - June 2021, [EPA withdrew](#) a compliance guide related to EPA’s July 2020 SNUR on certain long-chain PFAS. The withdrawn compliance guide, which was issued by the prior Administration in January 2021, addressed whether certain imported articles were covered by the SNUR. EPA [determined](#) that the compliance guide inappropriately narrowed the scope and weakened the SNUR.

Electric Utilities Coal Combustion Residuals (Part A): Deadline to Initiate Closure (EPA)

On April 17, 2015, EPA promulgated national minimum criteria for existing and new coal combustion residuals (CCR) landfills and existing and new CCR surface impoundments. On August 21, 2018, the U.S. Court of Appeals for the D.C. Circuit issued its opinion in the case of Utility Solid Waste Activities Group v. EPA, 901 F.3d 414 (per curiam) (USWAG). This final rule responds to the court’s vacatur of the 2015 provisions. The court vacated provisions that allowed unlined impoundments to continue receiving coal ash unless they leak, and classified “clay-lined” impoundments as lined, thereby allowing such units to operate indefinitely. In addition, EPA is establishing a revised date by which unlined surface impoundments must cease receiving waste and initiate closure, following its reconsideration of those dates in light of the USWAG decision. EPA is also finalizing amendments proposed on August 14, 2019, to the requirements for the annual groundwater monitoring and corrective action report and the requirements for the publicly accessible CCR internet sites.

Status:

- 9/5/2020 – Effective date of Trump [final rule](#).
- 11/24/2020 – Petition for review filed by environmental groups on [11/24/2020](#).
- 1/20/2021 – Final rule is under [EO 13990 Review](#) by new administration.
- 4/11/2021 – Date by which unlined surface impoundments and units that failed the aquifer location restriction must cease receiving waste and initiate closure or retrofit according to Trump final rule.
- 7/9/2021 - EPA posted [online](#) as a follow-up to their EO 13990 review of this rule that the most environmentally protective course would be to implement the Trump rule.
- 11/2021 - EPA's 2021 [Spring Agenda](#) states the agency will issue a proposed rule.

Electric Utilities Coal Combustion Residuals (Part B): Implementation of Closure (EPA)

On April 17, 2015, the Environmental Protection Agency (EPA or the Agency) promulgated national minimum criteria for existing and new coal combustion residuals (CCR) landfills and existing and new CCR surface impoundments. On August 21, 2018, the U.S. Court of Appeals for the D.C. Circuit issued its opinion in the case of Utility Solid Waste Activities Group v. EPA, 901 F.3d 414 (per curiam) (USWAG). This rule finalizes regulations proposed on March 3, 2020, including procedures to allow facilities to request approval to operate an existing CCR surface impoundment with an alternate liner, among other things. Provisions from the proposed rule that are not addressed in this rule will be addressed in a subsequent action.

Status:

- 12/14/2020 – Effective date of Trump [final rule](#).
- 1/20/2021 – Final rule is under [EO 13990 Review](#) by new administration.
- 7/9/2021 - EPA posted [online](#) as a follow-up to their EO 13990 review of this rule that the most environmentally protective course would be to implement the Trump rule.
- 7/2021 - EPA's 2021 [Spring Agenda](#) states the agency will issue a proposed rule.
- 11/30/2021 – Under Trump rule: [Under the Part B rule](#), facilities with an approved application to conduct an alternative liner demonstration have until November 30, 2021 to conduct the work and submit that demonstration.

Clean Air Act Benefits and Costs Process (EPA)

In this final rule, EPA established processes that the agency will be required to undertake in promulgating regulations under the Clean Air Act (CAA) to ensure that information regarding the benefits and costs of regulatory decisions is provided and considered in a consistent and transparent manner. EPA is establishing procedural requirements governing the preparation, development, presentation, and consideration of benefit-cost analyses (BCA), including risk assessments used in the BCA, for significant rulemakings conducted under the CAA. Together, these requirements will help ensure that EPA implements its statutory obligations under the CAA, and describes its work in implementing those obligations, in a way that is consistent and transparent.

Status:

- 12/23/2020 – Effective date of the Trump [final rule](#).
- 1/19/2021 - Petitions for review filed on [1/19/2021](#) and [1/25/2021](#).
- 2/23/2021 - The U.S. Court of Appeals for the DC Circuit granted the new administration's motion to hold in abeyance the cases challenging the rule. The motion that will govern how the cases will proceed are due by June 23, 2021. [EO 13990](#) directed EPA to publish a proposed rule, as soon as possible, requesting comment on suspending, revising, or rescinding the Trump final rule.

- 4/8/2021 – EPA submitted a proposed rule to OMB that is expected to revise, suspend, or rescind the Trump rule.
- 6/11/2021 - Chamber [comments](#) on proposed rescission filed.
- 6/14/2021 - Coalition [comments](#) on proposed rescission filed.
- 6/14/2021 – [Effective date of Biden](#) EPA final rule to rescind Trump final rule.

Strengthening Transparency in Regulatory Science (EPA)

The final rule established how EPA will consider the availability of dose-response data underlying pivotal science used in its significant regulatory actions and influential scientific information. When promulgating significant regulatory actions or developing influential scientific information for which the conclusions are driven by the quantitative relationship between the amount of dose or exposure to a pollutant, contaminant, or substance and an effect, the EPA will give greater consideration to studies where the underlying dose-response data are available in a manner sufficient for independent validation. This action also requires the EPA to identify and make publicly available the science that serves as the basis for informing a significant regulatory action at the proposed or draft stage to the extent practicable; reinforces the applicability of peer review requirements for pivotal science; and provides criteria for the Administrator to exempt certain studies from the requirements of this rulemaking.

Status:

- 2/1/2021 - While the final rule was effective on 1/6/2021, it was [vacated and remanded](#) to EPA on 2/1/2021 by the U.S. District Court for the District of Montana. The court ruled that the final rule was a substantive rule and not a rule of agency procedure and that the agency lacked the authority to promulgate a substantive rule under its housekeeping authority.
- 5/28/2021 - EPA removed the regulatory provisions associated with the final rule. In so doing, EPA effectuated the vacatur of the final rule ordered by the district court. EPA's action is also responsive to E.O. 13990.

Clean Water Act Section 401 Certification Rule (EPA)

In this final rule, EPA updates and clarifies the substantive and procedural requirements for water quality certification under Clean Water Act (CWA) section 401. CWA section 401 is a direct grant of authority to States (and Tribes that have been approved for “treatment as a State” status) to review for compliance with appropriate federal, State, and Tribal water quality requirements any discharge into a water of the United States that may result from a proposed activity that requires a federal license or permit. This final rule is intended to increase the predictability and timeliness of CWA section 401 certification actions by clarifying timeframes for certification, the scope of certification review and conditions, and related certification requirements and procedures.

Status:

- 9/11/2020 – Effective date of the Trump [final rule](#).
- 7/13/2020 – Several petitions for review were filed on the rule including: American Rivers [7/13/2020](#), DE Riverkeepers [7/13/2020](#), State AGs [7/21/2021](#), SC Coastal Conservation League [8/26/2020](#), Suquamish Tribe [8/31/2020](#). The three cases filed in the U.S. District Court for Northern District of California were consolidated.
- 4/6/2021 - EPA agreed to a 60-day abeyance until April 6, 2021 while the Biden administration reviews the rule as directed under [EO 13990 Review](#).
- 6/2/2021 - [EPA announced its intent](#) to revise the 2020 Clean Water Act (CWA) Section 401 Certification Rule.
- 2/2022 - EPA's 2021 [Spring Agenda](#) states the agency will issue a proposed rule.

Federal Energy Regulatory Commission (FERC)

Certification of New Natural Interstate Natural Gas Facilities (FERC)

In this Notice of Inquiry, the Federal Energy Regulatory Commission (FERC) is seeking information and stakeholder perspectives to help FERC explore whether it should revise its approach under the currently effective policy statement on the certification of new natural gas transportation facilities to determine whether a proposed natural gas project is or will be required by the public convenience and necessity, as that standard is established in section 7 of the Natural Gas Act.

Status:

- 4/19/2018 – FERC issued an initial [Notice of Inquiry](#) (NOI) initiating a review of its 1999 interstate natural gas Certificate Policy Statement.
- 7/25/2018 – Global Energy Institute submitted [comments](#) responsive to the initial NOI.
- 2/18/2021 – FERC issued a [revised NOI](#) in the same docket (PL18-1-000), reiterating a number of the questions posed in 2018 while adding a number of new and revised questions.
- 5/26/2021 – Comments due on revised NOI. The Chamber submitted these [comments](#).
- Further FERC action is anticipated once anticipated commissioner turnover results in a Democrat majority.

Qualifying Facility Rates and Requirements Under the PURPA of 1978 (FERC)

In this Order, the Federal Energy Regulatory Commission (FERC) issues its final rule approving certain revisions to its regulations implementing sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA). At its July 17, 2020, open meeting, FERC finalized this rulemaking by adopting these changes to provide greater flexibility to the states in establishing Qualifying Facility energy rates, through the modification of the “one-mile rule” used to determine what constitutes a single facility, and by finalizing a modified reduction from 20 Megawatts to 5 Megawatts of the rebuttable presumption with respect to small power production facilities’ access to wholesale markets, among other things. These changes will enable the Commission to continue to fulfill its statutory obligations under sections 201 and 210 of PURPA.

Status:

- 8/17/2020 - A handful of requests for rehearing of FERC’s [PURPA final rule](#) were submitted to FERC, predominantly from renewable developers and environmental NGOs.
- 9/18/2020 - The Solar Energy Industries Association filed a petition for review of FERC’s order in the U.S. Court of Appeals for the Ninth Circuit but requested a 60-day abeyance in order to provide FERC additional time to act on pending requests for rehearing.
- 11/19/2020 - The rehearing requests pending with FERC were generally denied in an issued order.
- 7/23/2021 - The joint brief of petitioner-intervenors is due along with any motions and associated briefs by amici curiae in support of petitioners.
- 10/21/2021 - Respondent’s brief is due.
- 11/22/2021 - Respondent-intervenor briefs and amicus briefs in support of the PURPA modernization are due.

Internal Revenue Service (IRS)

Credit for Carbon Oxide Sequestration under 45Q (IRS)

In this final rule, the Internal Revenue Service provides guidance regarding the credit for carbon dioxide or other carbon oxide sequestration under section 45Q of the Internal Revenue Code. These final regulations affect persons who physically or contractually ensure the capture and disposal of qualified carbon dioxide or other oxides, use of qualified carbon dioxide as a tertiary injectant in a qualified enhanced oil or natural gas recovery project, or utilization of qualified carbon dioxide in a manner that qualifies for the credit.

Status:

- 1/15/2021 – Effective date of the Trump [final rule](#).

Office of Management and Budget (OMB)**Regulatory Review Process and Cost-Benefit Guidance (OMB)**

On 1/26/2021, the President issued a memorandum to modernize the White House regulatory review process and the overarching principles of benefit-cost analysis set forth in the Office of Management and Budget's circular A-4. The regulatory review process is largely governed by Executive Order 12866 of September 30, 1993 (Regulatory Planning and Review). The memo reaffirms the basic principles set forth in that EO 12866 and in Executive Order 13563 from 1/18/2011 (Improving Regulation and Regulatory Review). For nearly four decades, the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) has been charged by Presidents of both parties with centralizing regulatory review and imposing analytic principles of benefit-cost analysis on agency rulemaking.

Status:

- 1/26/2021 – White House [memorandum](#) instructed OMB to update OMB's regulatory cost-benefit guidance to agencies.

Tier 2 Rules**Council on Environmental Quality (CEQ)****Guidance Procedural Rule (CEQ)**

In this final rule, Council on Environmental Quality (CEQ) Pursuant to Executive Order (E.O.) 13891, "Promoting the Rule of Law Through Improved Agency Guidance Documents," establishes the process that CEQ will follow for issuing guidance documents. E.O. 13891 requires Federal agencies to finalize regulations or amend existing regulations to establish processes and procedures for issuing guidance documents.

Status:

- 1/8/2021 – Effective date of Trump [final rule](#).
- 1/20/2021 - The Trump administration's executive order that directed agencies to issue this rulemaking was [revoked by EO 13992](#) on 1/20/2021 and the rule was listed as being under [EO 13990 Review](#) also on 1/20/2021.
- 4/13/2021 – Effective date of [Biden final rule](#) to revoke Trump final rule.

Department of Commerce (DOC)/Department of Interior (DOI)**ONRR 2020 Valuation Reform and Civil Penalty Rule (DOI)**

In this final rule, the Office of Natural Resources Revenue (ONRR) amended certain regulations on how it values oil and gas produced from Federal leases for royalty purposes, values coal produced from Federal and Indian leases for royalty purposes, and assesses civil penalties for violations of certain statutes, regulations, leases, and orders associated with mineral leases. In addition, the rule made some minor, non-substantive corrections to its regulations.

Status:

- 1/15/2021 – Publication date for the [final rule](#) with the effective date originally set on 2/16/2021.

- 4/16/2021 – ONRR [published a notice](#) extending the effective date of the rule by 60 days moving it to 4/16/2021. ONRR simultaneously opened a 30-day public comment, which closed on 3/15/2021, requesting input on the effective date as well as issues of fact, law, and policy.
- 6/11/2021 - ONRR is [proposing to withdraw](#) the final rule entitled “ONRR 2020 Valuation Reform and Civil Penalty Rule” (“2020 Rule”). Comments are due on August 10, 2021.
- 1/15/2022 - DOI’s 2021 [Spring Agenda](#) states the agency will issue a final rule.

DOI Guidance Procedural Rule (DOI)

In this interim final rule, DOI revised their rulemaking procedures to implement EO 13891 entitled “Promoting the Rule of Law Through Improved Agency Guidance Documents.” The order requires Federal Agencies to finalize regulations or amend existing regulations to establish processes and procedures for issuing guidance documents and to establish exceptions for categories of guidance documents.

Status:

- 10/26/2020 – Effective date of this Trump [interim final rule](#) was 10/26/2020; although the agency requested comment on the rule through 12/28/2020.
- 1/20/2021 – Final rule under [EO 13990 Review](#) by the new administration. The Trump administration executive order directing agencies to issue these agency procedural rules for guidance documents was revoked by [EO 13992](#).
- 4/15/2021 – Effective date of [Biden final rule](#) to rescind Trump’s 2020 interim final rule.

ESA Regulations for Interagency Cooperation (DOC/DOI)

In this final rule, the Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) revised portions of their regulations that implement section 7 of the Endangered Species Act. The revisions to the regulations clarify, interpret, and implement portions of the Act concerning the interagency cooperation procedures. The final rule addressed alternative consultation mechanisms; the definitions of “destruction or adverse modification” and “effects of the action”; certainty of measures proposed by action agencies to avoid, minimize, or offset adverse effects; and other improvements to the consultation process.

Status:

- 9/26/2019 – Effective date of Trump [final rule](#).
- 1/20/2021 – Final rule is under [EO 13990 Review](#) by the new administration.
- 6/4/2021 – FWS [announced](#) on their website that they would propose changes to the 2019 rule. The Services will propose to revise the definition of “effects of the action” and associated provisions to that portion of the rule, with other potential revisions also under discussion.
- 12/2021 - DOI’s 2021 [Spring Agenda](#) states the agency will issue a proposed rule.

Environmental Protection Agency (EPA)

Fuels Regulatory Streamlining (EPA)

In this final rule, EPA updates existing gasoline, diesel, and other fuel quality programs to improve overall compliance assurance and maintain environmental performance, while reducing compliance costs for industry and EPA. EPA is streamlining existing fuel quality regulations by removing expired provisions, eliminating redundant compliance provisions (e.g., duplicative registration requirements that are required by every EPA fuels program), removing unnecessary and out-of-date requirements, and replacing them with a single set of provisions and definitions that applies to all gasoline, diesel, and other fuel quality programs. This action does not change the stringency of the existing fuel quality standards.

Status:

- 12/4/2020, 1/1/2021, 1/1/2022 - Different parts of the [final rule](#) become effective across three different dates.
- 12/15/2020 - Petitions for review were filed [12/15/2020](#) and [2/1/2020](#).
- 8/2021 - EPA's 2021 [Spring Agenda](#) states the agency will issue a proposed rule.

NESHAP: Reclassification of Major Sources as Area Sources (EPA)

In this final rule, EPA amended the General Provisions that apply to National Emission Standards for Hazardous Air Pollutants (NESHAP) by implementing the plain language reading of the “major source” and “area source” definitions of section 112 of the Clean Air Act (CAA). The final rule provides that a major source can be reclassified to area source status at any time upon reducing its potential to emit (PTE) hazardous air pollutants (HAP) to below the major source thresholds (MST) of 10 tons per year (tpy) of any single HAP and 25 tpy of any combination of HAP. This rule also finalizes amendments to clarify the compliance dates, notification, and recordkeeping requirements that apply to sources choosing to reclassify to area source status and to sources that revert back to major source status, including a requirement for electronic notification.

Status:

- 1/19/2021 – Effective date of the Trump [final rule](#).
- 1/15/2021 - Petitions for review filed [1/15/2021](#) and [1/19/2021](#)
- 1/20/2021 – Final rule under [EO 13990 Review](#) by new administration.
- 12/2021 – EPA's [2021 Spring Regulatory Agenda](#) date for issuing a proposed rule.

Revisions to the Refrigerant Management Program's Extension to Substitutes (EPA)

In this final rule, EPA changed the legal interpretation that supported the 2016 Refrigerant Management rule, revising some of those requirements—specifically, the appliance maintenance and leak repair provisions—so they apply only to equipment using refrigerant containing an ozone-depleting substance. The Clean Air Act prohibits knowingly venting or releasing ozone depleting and substitute refrigerants in the course of maintaining, servicing, repairing, or disposing of appliances or industrial process refrigeration. In 2016, EPA amended the regulatory refrigerant management requirements and extended requirements that previously applied only to refrigerants containing an ozone-depleting substance to substitute refrigerants that are subject to the venting prohibition (i.e., those that have not been exempted from that prohibition) such as hydrofluorocarbons.

Status:

- 4/1/2020 – Effective date of the Trump [final rule](#).
- 1/20/2021 – Final rule under [EO 13990 Review](#) by new administration.
- 10/2021 – EPA's 2021 [Spring Agenda](#) states the agency will issue a proposed rule to make updates to the Significant New Alternatives Policy Program.

TSCA Regulation of PBT under TSCA Section 6(h) (EPA)

In these five final rules, EPA addresses Decabromodiphenyl ether; phenol, isopropylated phosphate (3:1), also known as tris(4-isopropylphenyl) phosphate; 2,4,6-tris(tert-butyl)phenol; hexachlorobutadiene; and pentachlorothiophenol pursuant to section 6(h) of the Toxic Substances Control Act (TSCA). These final rules would restrict or prohibit manufacture (including import), processing, and distribution in commerce for many uses of these five chemical substances. The final rules also include recordkeeping requirements.

Status:

- 1/6/2021 - All of the final rules were published in the federal register on this date with an original effective date of 2/5/2021. The final rules are: [Decabromodiphenyl ether](#); [phenol](#),

[isopropylated phosphate \(3:1\)](#), also known as tris(4-isopropylphenyl) phosphate; [2,4,6-tris\(tert-butyl\)phenol](#); [hexachlorobutadiene](#); and [pentachlorothiophenol](#),

- 1/20/2021 – Final rules placed under [EO 13990 Review](#) by the new administration.
- 2/5/2021 – [Final rules](#) issued for all five chemicals.
- 3/8/2021 – EPA issued a temporary 180-day “[no action assurance](#)” to not enforce the 3/8/2021 compliance deadline.
- 3/16/2021 – EPA issued a [proposed rule](#) requesting comment how the agency should revise the final rules to further reduce exposures including exposure for potentially susceptible subpopulations. Comments are due by May 17, 2021.
- 5/17/2021 - Chamber [comments](#) on compliance timelines for phenol, isopropylated phosphate (3:1).
- 9/2021 – EPA’s [2021 Spring Agenda](#) states the agency will issue an interim final rule.

CERCLA Financial Responsibility 108(b) - Hardrock Mining (EPA)

In this final rule, EPA announced their decision to not issue final regulations for financial responsibility requirements applicable to hardrock mining facilities. EPA analyzed the need for financial responsibility based on risk of taxpayer funded cleanups at hardrock mining facilities operating under modern management practices and modern environmental regulations. In the context of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, or Superfund) section 108(b), EPA found that the degree and duration of risk associated with the modern production, transportation, treatment, storage or disposal of hazardous substances by the hardrock mining industry does not present a level of risk of taxpayer funded response actions that warrant imposition of financial responsibility requirements for this sector.

Status:

- 3/23/2018 – Effective date of Trump [final rule](#).
- 7/19/2019 – U.S. Court of Appeals for the District of Columbia Circuit ruled in the *Idaho Conservation League et al., v. Wheeler* case that EPA acted reasonably in deciding not to issue CERCLA financial responsibility regulations for hard rock mining.
- 1/20/2021 – Final rule placed under [EO 13990 Review](#) by new administration.

CERCLA Financial Responsibility 108(b): Electric Power, Petroleum & Coal Products, Chemical Manufacturing (EPA)

In this final rule, EPA finalized its decision to not impose financial responsibility requirements under section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for facilities in three industry sectors including: the electric power generation, transmission, and distribution industry, pursuant to EPA’s proposal of July 29, 2019; the petroleum and coal products manufacturing industry, pursuant to EPA’s proposal of December 23, 2019; and the chemical manufacturing industry, pursuant to EPA’s proposal issued on February 10, 2020. The Agency concluded that facilities in these three industries operating under a modern regulatory framework do not present a level of risk that warrants financial responsibility requirements under CERCLA section 108(b).

Status:

- 1/4/2021 – Effective date of Trump [final rule](#).

EPA Guidance Procedural Rule (EPA)

In this final rule, EPA established the procedures and requirements for how the agency will manage the issuance of guidance documents consistent with the Executive Order 13891 entitled “Promoting the Rule of Law Through Improved Agency Guidance Documents.” This regulation provides a definition of guidance documents for the purposes of this rule, establishes general requirements and procedures for certain guidance documents issued by the EPA and incorporates additional

requirements for guidance documents determined to be significant guidance. This regulation also provides procedures for the public to petition for the modification or withdrawal of active guidance documents as defined by this rule or to petition for the reinstatement of a rescinded guidance document. This regulation is intended to increase the transparency of the EPA's guidance practices and improve the process used to manage EPA guidance documents.

Status:

- 11/18/2020 – Effective date of the Trump [final rule](#).
- 1/20/2021 – Final rule under [EO 13990 Review](#) by new administration. The Trump administration executive order directing agencies to issue these agency procedural rules for guidance documents was revoked by [EO 13992](#).
- 5/18/2021 – Effective date of [EO 13992's rescission](#) of Trump rule.

On-Site Civil Inspection Procedures (EPA)

In this final rule, EPA establishes procedures to fulfill the objectives outlined in the October 9, 2019 Executive Order (E.O.) 13892, Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication. This rule describes certain Agency procedures for conducting on-site civil inspections, as contemplated by section 7 of E.O. 13892 titled, "Ensuring Reasonable Administrative Inspections." This rule applies to on-site civil inspections conducted by federally credentialed EPA civil inspectors, federally credentialed contractors and Senior Environmental Employment (SEE) employees conducting inspections on behalf of EPA.

Status:

- 3/2/2020 – Effective date of the Trump [final rule](#).
- 1/20/2021 - The Trump administration executive order directing agencies to issue these agency procedural rules for guidance documents was revoked by [EO 13992](#).
- 6/2021 – EPA [2021 Spring Regulatory Agenda](#) date for a final rule that would revoke the 2020 Trump final rule.

Streamlining Procedures for Permit Appeals (EPA)

In this final rule, EPA updates the procedures and realigns prior delegations to streamline and modernize the agency's permit appeal process and ensure that appeals are decided consistent with the authority delegated from the Administrator. EPA clarifies the Environmental Appeals Board's (EAB's) scope of review in permit appeals, sets term limits for EAB judges, designates EAB decisions for publication, and processes allowing for the Administrator's legal interpretation. This final procedural rule applies to permits issued by or on behalf of EPA under the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, and the Resources Conservation and Recovery Act.

Status:

- 9/21/2020 – Effective date of the Trump [final rule](#).
- 1/20/2021 – Final rule is under [EO 13990 Review](#) by new administration. The Trump administration executive order directing agencies to issue these agency procedural rules for guidance documents was revoked by [EO 13992](#).
- 5/2021 – EPA [2021 Spring Regulatory Agenda](#) date for issuing a final rule that would rescind the 2020 Trump rule.

Effluent Limitations Guidelines for Steam Electric Reconsideration (EPA)

In this final rule, EPA revised the technology-based effluent limitations guidelines and standards (ELGs) for the steam electric power generating point source category applicable to flue gas desulfurization (FGD) wastewater and bottom ash transport water. EPA expects this final regulation to reduce the compliance costs as a result of less costly FGD wastewater technologies that could be used with the modification of the Steam Electric Power Generating Effluent Guidelines 2015 rule (the 2015 rule) limitations; less costly bottom ash transport water technologies made possible by the

revision of the 2015 rule's zero discharge limitations; a two-year extension of compliance time frames for meeting FGD wastewater and bottom ash transport water limitations, and additional subcategories for both FGD wastewater and bottom ash transport water. EPA estimates that participation in the voluntary incentive program would contribute to the reduction in pollutant discharges from FGD wastewater by approximately 26.7 million pounds per year.

Status:

- 12/14/2020 - Effective date of the Trump [final rule](#).
- 1/20/2021 – Final rule is under [EO 13990 Review](#) by the new administration.

U.S. Department of Agriculture (USDA)

Forest Service NEPA Update (USDA)

In this final rule, the USDA's Forest Service amended its National Environmental Policy Act (NEPA) regulations. The final rule establishes new and revised categorical exclusions pertaining to certain special use authorizations, infrastructure management activities, and restoration and resilience activities and adds the determination of NEPA adequacy provision to the Agency's NEPA regulations. These amendments will increase efficiency in the agency's environmental analysis and decision making.

Status:

- 11/19/2020 – Effective date of the Trump [final rule](#).

Tier 3 Rules

Army Corps of Engineers

Army Corps and EPA Memo on Exempt Construction Under CWA Section 404 (Army Corps, EPA)

The Army Corps of Engineers and EPA implement Section 404 of the Clean Water Act (CWA). Section 404 of the CWA regulates the discharge of dredged or fill material into the navigable waters, which the CWA defines as “waters of the United States, including the territorial seas.” The agencies signed this memorandum to provide a clear, consistent approach regarding the application of the exemptions from regulation under Section 404(f)(1)(C) of the CWA for the construction or maintenance of irrigation ditches and for the maintenance of drainage ditches.

Status:

- 7/24/2020 - [Final memo](#) issuance date.

Multi-agency Coordination Memo on Clean Water Act 404 Implementation (Army Corps, EPA, USDA)

This July 2020 memo from the USDA, Army Corps of Engineers, and U.S. EPA provides guidance on the implementation of Clean Water Act (CWA) Section 404 and the Food Security Act (FSA) of 1985 regarding the procedures for how to delineate wetlands that are considered “waters of the United States” for prior converted cropland (PCC). Under the CWA, EPA issues permits for the discharge of dredged or fill material (e.g., sand, soil, excavated material) into wetlands that are considered “waters of the United States” (WOTUS). The FSA includes a wetland conservation provision that may exclude producers who farm or convert wetlands to agricultural production from farm program benefits. This memo helps coordinate the agencies' interpretations of wetland delineations for PCCs and serves to reduce duplicative efforts and reduce uncertainty for the regulated community.

Status:

- 7/17/2020 – [Final memo](#) issuance date.

Department of Commerce (DOC)

NOAA Oil and Gas Taking Marine Mammals due to Geophysical Surveys - Gulf of Mexico (DOC)

In this final rule, NOAA Fisheries, upon request from the Bureau of Ocean Energy Management (BOEM), issued regulations to govern the unintentional taking of marine mammals incidental to geophysical survey activities conducted by oil and gas industry operators, and those persons authorized to conduct activities on their behalf (collectively “industry operators”), in Federal waters of the U.S. Gulf of Mexico over the course of five years. These regulations, which allow for the issuance of “Letters of Authorization” to industry operators for the incidental take of marine mammals during the described activities and specified timeframe, prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, as well as requirements pertaining to the monitoring and reporting of such taking.

Status:

- 4/21/2021 – Effective date of the Trump [final rule](#).

Department of Energy (DOE)

Critical Electric Infrastructure Information (DOE)

In this final rule, the U.S. Department of Energy (DOE) published plans to implement DOE’s critical electric infrastructure information (CEII) designation authority under the Federal Power Act (FPA). DOE established administrative procedures intended to ensure that stakeholders and the public understand how the Department would designate, protect, and share CEII.

Status:

- 5/15/2020 – Effective date of the Trump [final rule](#).

Department of Interior (DOI)

BOEM Air Quality Control, Reporting, and Compliance (DOI)

In this final rule, BOEM amended the regulations related to air quality measurement, evaluation, and control for oil, gas, and sulfur operations on the Outer Continental Shelf (OCS). More specifically, it amends the air quality management regulations applicable to activities that BOEM authorizes on the OCS of the United States in the Central and Western Gulf of Mexico (GOM) west of 87.5 degrees longitude and adjacent to the North Slope Borough of the State of Alaska. The air quality regulatory program (AQRP) is a component of the review and approval of plans for the exploration, development, and production of oil, gas, and sulfur on the OCS to comport with the Secretary of the Interior’s separate and distinct statutory authority governing air quality. This final rule implements the Secretary of the Interior’s statutory responsibility to ensure that conventional energy activities authorized under the Outer Continental Shelf Lands Act (OCSLA) do not preclude compliance with National Ambient Air Quality Standards (NAAQS) to the extent those activities significantly affect the air quality of any State.

Status:

- 7/2/2020 – Effective date of the Trump [final rule](#).

Memo Revoking Coal Lease Moratorium (DOI)

The Federal coal leasing program is of critical importance to the economy of the United States, supplying approximately 40 percent of the coal produced in the Nation. On January 15, 2016, Secretary's Order 3338, "Discretionary Programmatic Environmental Impact Statement to Modernize the Federal Coal Program," was signed and placed a moratorium on the coal leasing program with limited exceptions. Given the critical importance of the Federal coal leasing program to energy security, job creation, and proper conservation stewardship, this Order directs efforts to enhance and improve the Federal coal leasing program.

Status:

- 3/29/2017 - [Final memo](#) issuance date.
- 6/03/2021 – Montana Federal Court declined [to stay proceedings](#) of environmental groups and states' challenge to lifting of moratorium on federal coal leasing.

Department of Justice (DOJ)

Prohibition on Settlement Payments to Third Parties (DOJ)

In this final rule, the Department of Justice amends its regulations to set forth the principles of the Attorney General's Memorandum of June 5, 2017, prohibiting the inclusion of provisions in settlement agreements directing or providing for a payment or loan to a non-governmental person or entity that is not a party to the dispute, except in defined circumstances.

Status:

- 12/16/2020 – Effective date of this [final rule](#).
- 6/14/2021 - The Conservation Law Foundation, the Surfrider Foundation, and the Sierra Club petitioned DOJ to issue a rule authorizing the use of supplemental environmental projects (SEPs) in environmental enforcement settlements.

Department of Labor (DOL)

Financial Factors in Selecting Plan Investments (DOL)

In this final rule, the Department of Labor is adopting amendments to the "investment duties" regulation under Title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA). The amendments require plan fiduciaries to select investments and investment courses of action based solely on financial considerations relevant to the risk adjusted economic value of a particular investment or investment course of action.

Status:

- 1/12/2021 – Effective date of this [final rule](#).

Department of Transportation (DOT)

PHMSA - LNG by Rail (DOT)

In this final rule, Pipeline and Hazardous Materials Safety Administration (PHMSA), in coordination with the Federal Railroad Administration (FRA), is amending the Hazardous Materials Regulations (HMR) to allow for the bulk transport of liquefied natural gas (LNG) in rail tank cars. This rulemaking authorizes the transportation of LNG by rail in DOT-113C120W specification rail tank cars with enhanced outer tank requirements, subject to all applicable requirements and certain additional operational controls. The enhancements to the outer tank are indicated by the new specification suffix "9" (DOT- 113C120W9).

Status:

- 8/24/2020 – Effective date of this [final rule](#).
- 8/2021 - DOT's 2021 [Spring Agenda](#) states the agency will issue a proposed rule.

Environmental Protection Agency (EPA)**Continuous Emission Monitoring Quality Assurance Requirements During National Emergencies (EPA)**

In this interim final rule, (EPA) is amending the emissions reporting regulations applicable to sources that monitor and report emissions under the Acid Rain Program, the Cross-State Air Pollution Rule (CSAPR), and/or the NO_x SIP Call. The amendments provide that if an affected unit fails to complete a required quality-assurance, certification or recertification, fuel analysis, or emission rate test by the applicable deadline under the regulations because of travel, plant access, or other safety restrictions implemented to address the current COVID-19 national emergency and if the unit's actual monitored data would be considered valid if not for the delayed test, the unit may temporarily continue to report actual monitored data instead of substitute data. Sources must maintain documentation, notify EPA when a test is delayed and later completed, and certify to EPA that they meet the criteria for using the amended reporting procedures. Substitute data must be reported if those criteria are not met or if monitored data are missing or are invalid for any non-emergency related reason. Units are required to complete any delayed tests as soon as practicable after relevant emergency related restrictions no longer apply, and the emergency period for which a unit can report valid data under the amendments is limited to the duration of the COVID-19 national emergency plus a grace period of 60 days to complete delayed tests, but no later than the date of expiration of the amendments. This action is necessary during the COVID-19 national emergency to protect on-site power plant operators and other essential personnel from unnecessary risk of exposure to the coronavirus.

Status:

- 4/22/2020 – Effective date of this [interim final rule](#). The comment period for the interim final rule ended on May 22, 2020.

Light-duty Vehicle GHG Program Technical Amendments (EPA)

In this final rule, EPA is finalizing two technical corrections to the light-duty vehicle greenhouse gas (GHG) emissions standards regulations which were first promulgated in the 2012 rulemaking that established GHG standards for model years 2017–2025 light-duty vehicles. First, EPA is correcting regulations pertaining to how auto manufacturers calculate credits for the GHG program's optional advanced technology incentives. This final rule corrects an error to ensure that auto manufacturers receive the appropriate amount of credits for electric vehicles, plug-in hybrid electric vehicles, fuel cell electric vehicles, and natural gas fueled vehicles. Second, this rule corrects an error in the regulations regarding how manufacturers must calculate certain types of off-cycle credits.

Status:

- 4/23/2020 – Effective date of this [final rule](#).

Marine Diesel Engine Emission Standard Amendments (EPA)

In this final rule, the EPA is amending the national marine diesel engine program with relief provisions to address concerns associated with finding and installing certified Tier 4 marine diesel engines in certain high-speed commercial vessels. This relief is in the form of additional lead time for qualifying engines and vessels.

Status:

- 11/2/2020 – Effective date of this [final rule](#).

NAAQS SIP for Interstate Transport - 2015 Ozone (EPA)

In this final rule, EPA made the finding that seven states have failed to submit infrastructure State Implementation Plans (SIPs) to satisfy certain interstate transport requirements of the Clean Air Act (CAA) with respect to the 2015 8-hour ozone national ambient air quality standards (NAAQS). Specifically, these requirements pertain to prohibiting significant contribution to nonattainment, or interference with maintenance, of the 2015 8-hour ozone NAAQS in other states. These findings of failure to submit establish a 2-year deadline for the EPA to promulgate Federal Implementation Plans (FIPs) to address these interstate transport requirements for a given state unless, prior to the EPA promulgating a FIP, the state submits, and the EPA approves, a SIP that meets these requirements.

Status:

- 1/6/2020 – Effective date of this [final rule](#).

NAAQS: Dallas-Fort Worth Redesignation Plan (EPA)

In this final rule, EPA is approving revisions to the Texas State Implementation Plan (SIP) that pertain to the Dallas-Fort Worth (DFW) area and the 1979 1-hour and 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS or standard). The EPA is approving the plan for maintaining the 1-hour and 1997 ozone NAAQS through the year 2032 in the DFW area. EPA is determining that the DFW area continues to attain the 1979 1-hour and 1997 8-hour ozone NAAQS and has met the five CAA criteria for redesignation. Therefore, the EPA is terminating all anti-backsliding obligations for the DFW area for the 1-hour and 1997 ozone NAAQS.

Status:

- 5/6/2020 – Effective date of this [final rule](#).

NAAQS: Houston Area Ozone Redesignation Plan (EPA)

Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA or Agency) is approving revisions to the Texas State Implementation Plan (SIP) that pertain to the Houston-Galveston-Brazoria (HGB) area and the 1979 1-hour and 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS). The EPA is approving the plan for maintaining the 1-hour and 1997 ozone NAAQS through the year 2032 in the HGB area. EPA determined that the HGB area continues to attain the 1979 1-hour and 1997 8-hour ozone NAAQS and has met the five CAA criteria for redesignation. Therefore, the EPA is terminating all anti-backsliding obligations for the HGB area for the 1-hour and 1997 ozone NAAQS. The EPA is also approving the Texas Severe Ozone Nonattainment Area Failure to Attain Fee regulations for the HGB area as an equivalent alternative program to address section 185 of the CAA for the 1-hour ozone NAAQS.

Status:

- 3/16/2020 – Effective date of Trump [final rule](#).

NESHAP: Miscellaneous Organic Chemical Manufacturing RTR (EPA)

This rule finalizes the residual risk and technology review (RTR) conducted for the Miscellaneous Organic Chemical Manufacturing source category regulated under national emission standards for hazardous air pollutants (NESHAP). EPA finalized decisions concerning the RTR, including amendments pursuant to the technology review for equipment leaks and heat exchange systems, and also amendments pursuant to the risk review to specifically address ethylene oxide emissions from storage tanks, process vents, and equipment leaks. In addition, EPA took final action to correct and clarify regulatory provisions related to emissions during periods of startup, shutdown, and malfunction (SSM), including removing general exemptions for periods of SSM, adding work practice standards for periods of SSM where appropriate, and clarifying regulatory provisions for certain vent

control bypasses. EPA added monitoring and operational requirements for flares that control ethylene oxide emissions and flares used to control emissions from processes that produce olefins and polyolefins; added provisions for electronic reporting of performance test results and other reports; and included other technical corrections to improve consistency and clarity.

Status:

- 8/12/2020 – Effective date of the [final rule](#).
- 10/13/2020 - ACC filed a lawsuit in the D.C. Circuit challenging the MON RTR's reliance on the IRIS EtO URE as a basis for the MON RTR. Litigation is currently in abeyance pending EPA review of the underlying MON RTR for conformity with President Biden's Executive Order 13990.
- 6/11/2021 - Motions to govern future proceedings in the 2020 case were due.

NESHAP: Petroleum Refinery Sector: Action Denying a Petition for Reconsideration (EPA)

In this notice, EPA notified the petitioner by letter that the EPA was denying reconsideration of the promulgated amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP): Petroleum Refinery Sector based on the residual risk and technology review (RTR) conducted for the Petroleum Refinery source category. On April 6, 2020, the EPA received a petition for reconsideration on five issues related to the February 4, 2020, final rule. The basis for the denial is set out fully in the letter sent to the petitioner, and this letter is available in the rulemaking docket.

Status:

- 10/26/2020 – Effective date of this [final action](#).

NESHAP: Review of Standards for Coal Refuse-Fired Units (EPA)

In this final rule, EPA established a subcategory of certain existing electric utility steam generating units (EGUs) firing eastern bituminous coal refuse (EBCR) for acid gas hazardous air pollutant (HAP) emissions that was noticed in a February 7, 2019, proposed rule titled “National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units—Reconsideration of Supplemental Finding and Residual Risk and Technology Review.” EPA determined that there is a need for such a subcategory under the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Coal- and Oil-Fired EGUs, commonly known as the Mercury and Air Toxics Standards (MATS), and established acid gas HAP emission standards applicable only to the new subcategory.

Status:

- 4/15/2020 – Effective date of this [final rule](#).

NPDES Multi-Sector General Permit for Industrial Stormwater Discharges (EPA)

In this final action, EPA finalized the 2021 National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges associated with industrial activity, also referred to as the “2021 Multi-Sector General Permit (MSGP).” This final permit replaces EPA's administratively continued 2015 MSGP that expired on June 3, 2020. EPA is issuing this permit for five (5) years to provide permit coverage to eligible operators in all areas of the country where EPA is the NPDES permitting authority, including Idaho (until July 1, 2021), Massachusetts, New Hampshire, New Mexico, Indian country lands, Puerto Rico, the District of Columbia, and most U.S. territories and protectorates.

Status:

- 6/3/2020 – As the 2015 MSGP expired on 6/3/2020, EPA issued a “no action assurance” notice for new facilities that commence discharging stormwater between 6/4/2020 and 3/1/2021.
- 3/1/2021 - Effective date of the [final permit](#).

Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate; Significant New Use Rule (EPA)

EPA finalized amendments to the significant new use rule (SNUR) under the Toxic Substances Control Act (TSCA) for long-chain perfluoroalkyl carboxylate (LCPFAC) chemical substances that were proposed on January 21, 2015; an amendment to a SNUR for perfluoroalkyl sulfonate chemical substances that was proposed on January 21, 2015; and an amendment to make inapplicable the exemption for persons who import a subset of LCPFAC chemical substances as part of surface coatings on articles, which was proposed on March 3, 2020. This final rule requires persons to notify EPA at least 90 days before commencing the manufacture (including import) or processing of these chemical substances for the significant new uses described in this notice. The required significant new use notification initiates EPA’s evaluation of the conditions of use associated with the significant new use. Manufacturing (including import) or processing for the significant new use are prohibited from commencing until EPA has conducted a review of the notice, made an appropriate determination on the notice, and taken such actions as are required in association with that determination. As with any SNUR, this final rule excludes ongoing uses as they cannot be subject to a SNUR.

Status:

- 9/25/2020 – Effective date of this [final rule](#).

Small Manufacturer Definition Update Under TSCA Section 8(a) (EPA)

In this rule, the EPA is finalizing amendments to the definition of small manufacturer, including a new definition for small government, in accordance with the Toxic Substances Control Act (TSCA). Changes to the small manufacturer definition impact certain reporting and recordkeeping requirements established under TSCA. EPA is also finalizing other minor changes.

Status:

- 6/29/2020 – Effective date of this [final rule](#).

TSCA Chemical Data Reporting Revisions Under TSCA Section 8(a) (EPA)

EPA finalized amendments to the Chemical Data Reporting (CDR) requirements under the Toxic Substances Control Act (TSCA). The CDR rule requires manufacturers (including importers) of certain chemical substances listed on the TSCA Chemical Substance Inventory to report data on chemical manufacturing, processing, and use every four years. EPA is finalizing several changes to the CDR rule to make regulatory updates that align with new statutory requirements of TSCA, to improve the CDR data collected as necessary to support the implementation of TSCA, and to reduce burden for certain CDR reporters. In addition, these regulatory modifications may result in additional information to EPA and the public that is currently not collected; improve the usability and reliability of the reported data; and ensure that data are available in a timely manner.

Status:

- 5/11/2020 – Effective date of this [final rule](#).
- 2/2022 – EPA’s 2021 [Spring Agenda](#) states the agency will issue a proposed rule to add certain chemicals that are on the TSCA Work Plan to the Chemical-Specific Reporting and Recordkeeping rules.

Civil Monetary Penalty Inflation Adjustment (EPA)

In this final rule, EPA adjusted the level of the maximum (and minimum) statutory civil monetary penalty amounts under the statutes the EPA administers. This action is mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. That legislation prescribes a formula for annually adjusting the statutory maximum (and minimum) amount of civil monetary penalties to reflect inflation, maintain the deterrent effect of statutory civil monetary penalties, and promote compliance with the law. The EPA rule does not establish specific civil monetary penalty amounts the EPA may seek in particular cases, as appropriate given the facts of particular cases and applicable agency penalty policies. The EPA's civil penalty policies, which guide enforcement personnel on how to exercise the EPA's discretion within statutory penalty authorities, take into account a number of fact-specific considerations, e.g., the seriousness of the violation, the violator's good faith efforts to comply, any economic benefit gained by the violator as a result of its noncompliance, and a violator's ability to pay.

Status:

- 12/23/2020 – Effective date of this [final rule](#).

NPDES Electronic Reporting Rule - Phase 2 Extension (EPA)

In this final rule, EPA postponed the compliance deadlines for implementation of Phase 2 of the National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule ("NPDES eRule"). The NPDES eRule requires EPA and states to modernize Clean Water Act (CWA) reporting. This final rule also provides states with additional flexibility to request additional time as needed. Further, this final rule promulgates clarifying changes to the NPDES eRule and eliminates some duplicative or outdated reporting requirements. Taken together, these changes are designed to save the NPDES authorized programs considerable resources, make reporting easier for NPDES-regulated entities, streamline permit renewals, ensure full exchange of NPDES program data between states and EPA, enhance public transparency, improve environmental decision-making, and protect human health and the environment.

Status:

- 1/4/2020 – Effective date of this [final rule](#).

NESHAP: Stationary Combustion Turbines Residual Risk and Technology Review (EPA)

This action finalizes the residual risk and technology review (RTR) conducted for the Stationary Combustion Turbines source category regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, we are taking final action addressing requirements during periods of startup, shutdown, and malfunction (SSM) and to add electronic reporting requirements. The EPA is finalizing our proposed determination that the risks from this source category due to emissions of air toxics are acceptable and that the existing NESHAP provides an ample margin of safety to protect public health. The EPA is also finalizing our proposed determination that we identified no new cost-effective controls under the technology review that would achieve further emissions reductions from the source category.

Status:

- 3/9/2020 – Effective date of this [final rule](#).
- 5/8/2020 – Sierra Club petitions for review of rule in D.C. Circuit.
- 6/16/2021 – D.C. Circuit grants EPA's [motion to extend](#) the abeyance of the CT RTR litigation. Motions to govern future proceedings are due December 1, 2021.
- 12/2021 - EPA's 2021 [Spring Agenda](#) states the agency will issue a proposed rule.

Federal Permitting Improvement Steering Council (FPISC)

Adding Mining as a Sector for FAST-41 Coverage (FPISC)

In this final rule, the Federal Permitting Improvement Steering Council (FPISC) added mining as a sector with infrastructure projects eligible for coverage under Title 41 of the Fixing America's Surface Transportation Act (FAST-41). The addition of mining as a FAST-41 sector will allow qualified mining infrastructure projects to become FAST-41 covered projects and to receive assistance from FPISC on the coordination of federal permitting decisions. FAST-41 coverage will help Federal agencies coordinate their environmental and project review efforts to improve the timeliness, efficiency, predictability, and transparency of the decision-making processes associated with covered mining projects. The designation of mining as a FAST-41 sector does not predetermine or affect any Federal agency decision with respect to any mining authorization or permit application, nor does it sidestep any required environmental review or public consultation process.

Status:

- 1/8/2021 – Effective date on this [final rule](#).
- 12/2021 - EPA's 2021 [Spring Agenda](#) states the agency will issue a proposed rule on whether to revise which sectors are eligible.