

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Statement of Priorities

OVERVIEW

The U.S. Environmental Protection Agency (EPA) administers the laws enacted by Congress and signed by the President to protect people's health and the environment. In carrying out these statutory mandates, the EPA works to ensure that all Americans are protected from significant risks to human health and the environment where they live, learn and work; that national efforts to reduce environmental risk are based on the best available scientific information; that Federal laws protecting human health and the environment are enforced fairly and effectively; that environmental protection is an integral consideration in U.S. policies concerning natural resources, human health, economic growth, energy, transportation, agriculture, industry, and international trade, and these factors are similarly considered in establishing environmental policy; that all parts of society-communities, individuals, businesses, and State, local and tribal governments-have access to accurate information sufficient to effectively participate in managing human health and environmental risks; that environmental protection contributes to making our communities and ecosystems diverse, sustainable and economically productive; and, that the United States plays a leadership role in working with other nations to protect the global environment.

To accomplish its goals in the coming year, the EPA will use regulatory authorities, along with grant- and incentive-based programs, technical and compliance assistance and tools, and research and educational initiatives to address its statutory responsibilities. All of this work will be undertaken with a strong commitment to science, law and transparency.

HIGHLIGHTS OF EPA'S REGULATORY PLAN

EPA's more than forty years of protecting public health and the environment demonstrates our nation's commitment to reducing pollution that can threaten the air we breathe, the water we use, and the communities we live in. This Regulatory Plan contains information on some of our most important upcoming regulatory and deregulatory actions. As always, our Semiannual Regulatory Agenda contains information on a broader spectrum of EPA's upcoming regulatory actions.

Improving Air Quality

The Agency will continue to deploy existing regulatory tools where appropriate and warranted. Using the Clean Air Act, EPA will work with States to accurately measure air quality and ensure that more Americans are living and working in areas that meet air quality standards. EPA will continue to develop standards, as directed by the Clean

Air Act, for both mobile and stationary sources, to reduce emissions of sulfur dioxide, particulate matter, nitrogen oxides, toxics, and other pollutants.

Electric Utility Sector Greenhouse Gas Rules

The EPA will continue its review of the Clean Power Plan suite of actions issued by the previous administration affecting fossil fuel-fired electric generating units (EGUs). On October 23, 2015, the EPA issued a final rule that established first-ever standards for States to follow in developing plans to reduce carbon dioxide (CO₂) emissions from existing fossil fuel-fired EGUs. On the same day, the EPA issued a final rule establishing CO₂ emissions standards for newly constructed, modified, and reconstructed fossil fuel fired EGUs. The Agency will reevaluate whether these rules and alternative approaches are appropriately grounded in EPA's statutory authority and consistent with the rule of law. EPA will assess whether these rules or alternative approaches would appropriately promote cooperative federalism and respect the authority and powers that are reserved to the States; whether these rules and alternative approaches affect the Administration's dual goals of protecting public health and welfare, while also supporting economic growth and job creation; and whether these rules or alternative approaches appropriately maintain the diversity of reliable energy resources and encourage the production of domestic energy sources to achieve energy independence and security.

Light-duty Vehicle Mid-Term Evaluation

In 2012, as part of a joint rulemaking, the EPA and the Department of Transportation's National Highway Traffic Safety Administration (NHTSA) finalized separate sets of standards under their respective statutory authorities. The EPA set GHG emission standards (including standards for emissions of CO₂, NO_x, methane, and air conditioning refrigerants) for Model Year (MY) 2017-2025 passenger cars and light-trucks under Clean Air Act (CAA) section 202(a). NHTSA sets national CAFE standards under the Energy Policy and Conservation Act (EPCA) for MY 2017-2021 light-duty vehicles and issued augural standards for MY 2022-2025. The 2012 joint rulemaking establishing these standards included a regulatory requirement for the EPA to conduct a Mid-Term Evaluation of the GHG standards established for MY 2022-2025. In July 2016, the EPA, NHTSA, and the California Air Resources Board (CARB) released for public comment a jointly prepared Draft Technical Assessment Report, which examined a range of issues relevant to GHG emissions and CAFE standards for MY 2022-2025.

Under the 2012 joint rulemaking regulations, no later than April 1, 2018, the EPA Administrator must determine whether the GHG standards established under the 2012 joint rule for MY 2022-2025 are appropriate under CAA section 202(a) in light of the record then before the Administrator. Given that CO₂ makes up the vast majority of the GHGs that the EPA regulates under section 202(a), and given that the technologies

available for regulating CO2 emissions do so by improving fuel economy (which NHTSA regulates under EPCA), NHTSA's views regarding their CAFE standards is an appropriate consideration in EPA's determination regarding what GHG standards would be appropriate under the CAA.

In accordance with the schedule set forth in the EPA's regulations, the EPA intends to make a Final Determination regarding the appropriateness of the MY 2022-2025 GHG standards no later than April 1, 2018. As a part of this process, the EPA is examining a wide range of factors, such as developments in powertrain technology, vehicle electrification, light-weighting and vehicle safety impacts, the penetration of fuel efficient technologies in the marketplace, consumer acceptance of fuel efficient technologies, trends in fuel prices and the vehicle fleet, employment impacts, and many others.

New Source Review and Title V Permitting Programs Reform

The CAA establishes a number of permitting programs designed to carry out the goals of the Act. The EPA directly implements some of these programs through its regional offices, but most are carried out by States, local agencies, and approved tribes. New Source Review (NSR) is a preconstruction permitting program that ensures that the addition of new and modified sources does not significantly degrade air quality. NSR permits are legal documents that the facility owners/operators must abide by. The permit specifies what construction is allowed, what emission limits must be met, and often how the emissions source may be operated. There are three types of NSR permits: (1) Prevention of Significant Deterioration (PSD) (CAA part C) permits, which are required for new major sources or a major source making a major modification in an attainment area; (2) Nonattainment NSR (NNSR) (CAA part D) permits, which are required for new major sources or major sources making a major modification in a nonattainment area; and (3) Minor source permits (CAA section 110(a)(2)(C)).

CAA title V requires major sources of air pollutants, and certain other sources, to obtain and operate in compliance with an operating permit. Sources with these "title V permits" are required by the CAA to certify compliance with the applicable requirements of their permits at least annually. Regulations governing the Title V program are found at 40 CFR part 70 - State Operating Permit Programs.

To improve program effectiveness and reduce compliance burden, the EPA will examine permitting programs reforms, such as the timely issuance of permits, the facilitation of flexibility in permitting in a nationally consistent manner (including but not limited to plant-wide applicability limits (PALs) and alternative operating scenarios), and the simplification of CAA permitting requirements by evaluating and pursuing appropriate actions related to actual-to-projected-actual applicability test, project netting rulemaking, debottlenecking, and routine maintenance, repair, and replacement.

The EPA plans to complete the following actions: GHG Significant Emission Rate rulemaking, which will provide a significance threshold for GHG emissions to determine when a best available control technology (BACT) analysis is required; improve the technical tools used to streamline air quality modeling by issuing final PM2.5 and Ozone Significant Impact Levels (SILs) Guidance, and final Modeled Emissions Rates for Precursors (MERPs) Guidance; and title V Permitting Program Petition Provisions Modification.

Ozone National Ambient Air Quality Standard (NAAQS) Implementation Revisions

On October 1, 2015, the EPA signed a notice of final rulemaking that revised the 8-hour primary and secondary Ozone NAAQS. The primary standard was lowered from 0.075 parts per million (ppm) to a level of 0.070 ppm. The EPA also revised the secondary standard by making it identical in all respects to the revised primary standard.

Subsequently, stakeholders have recommended that the EPA further revise the exceptional event rule and associated guidance to allow for greater state flexibility in flagging and excluding exceptional events in the data set used to determine compliance with the NAAQS. Exceptional events are unusual or naturally occurring events that can affect air quality but are not reasonably controllable using techniques that tribal, State, or local air agencies may implement in order to attain and maintain the NAAQS. Exceptional events include wildfires, stratospheric ozone intrusions, and volcanic and seismic activities. In September 2016, the EPA finalized revisions to the Exceptional Events rule to establish criteria and procedures for use in determining exceptional events influenced air quality monitoring data.

In addition, the EPA intends to use the additional time afforded by the designations extension to finalize necessary guidance (e.g., updated exceptional events guidance and guidance on Significant Impact Levels (SILs) and Model Emission Rates for Precursors (MERPs), as well as to finalize its 2015 Ozone NAAQS Implementation rule.

Improving Water Quality

Since the enactment of the Clean Water Act and the Safer Drinking Water Act, tremendous progress has been made toward ensuring that Americans have safe water to drink and generally improving the quality of the Nation's waters. While progress has been made, numerous challenges remain in such areas as nutrient loadings, storm water runoff, invasive species and drinking water contaminants. These challenges can only be addressed by working with our State and tribal partners to develop new and innovative strategies in addition to the more traditional regulatory approaches. EPA plans to address the following challenging issues in rulemakings.

Waters of the U.S.

The Clean Water Act (CWA) seeks "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Among other provisions, the CWA regulates the discharge of pollutants into "navigable waters," defined in the CWA as "the waters of the United States." The question of what is a "water of the United States" is one that has generated substantial interest and uncertainty, especially among states, small businesses, the agricultural communities, and environmental organizations, because it relates to the extent of jurisdiction for Federal and relevant State regulations.

The EPA and the Department of the Army have promulgated a series of regulations defining "waters of the United States." The scope of "waters of the United States" as defined by prior regulations has been subject to litigation in several U.S. Supreme Court cases, most recently in its 2006 *Rapanos* decision. Subsequently, the EPA and the Corp of Engineers issued the "Clean Water Rule: Definition of 'Waters of the United States.'" (2015 WOTUS Rule.) On October 9, 2015, the Sixth Circuit stayed the 2015 WOTUS rule nationwide pending further action of the court.

On July 27, 2017, the EPA and the Army issued a proposed rulemaking to repeal the 2015 WOTUS rule and reinstate the regulations in place prior to its issuance. As indicated in the proposed withdrawal, the agencies are implementing clarifying changes in two steps to provide as much certainty as possible as quickly as possible to the regulated community and the public during the development of the ultimate replacement rule. In Step 1, the agencies are seeking to establish the legal status quo in the Code of Federal Regulations, by recodifying the regulation that was in place prior to issuance of the 2015 WOTUS Rule. Currently, these prior regulations are being implemented under the U.S. Court of Appeals for the Sixth Circuit's stay of the 2015 rule. In step 2, the agencies plan to propose a new definition that would replace the prior regulations and the approach in the 2015 Clean Water Rule. In determining the possible new approaches, EPA and the Corps of Engineers are considering a definition for "navigable water" in a manner consistent with the plurality opinion of Justice Antonin Scalia in the *Rapanos* decision as instructed by Executive Order 13778, "Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule."

Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category

On November 3, 2015, under the authority of the CWA, the EPA issued a final rule amending the Effluent Limitations Guidelines (ELG) and Standards for the Steam Electric Power Generating Point Source Category (i.e., 2015 Steam Electric ELG). The amendments addressed and contained limitations and standards on various waste streams at steam electric power plants: fly ash transport water, bottom ash transport water, flue gas mercury control wastewater, flue gas desulfurization (FGD) wastewater,

gasification wastewater, and combustion residual leachate. EPA recently received two administrative petitions for reconsideration of the Steam Electric ELG rule, one from the Utility Water Act Group (a petitioner in the litigation) and one from the Small Business Administration Office of Advocacy. In a letter dated April 12, 2017, Administrator Pruitt informed the petitioners of his decision that it is appropriate and in the public interest to reconsider the rule. On April 25, 2017, EPA published a Federal Register notice issuing an administrative stay of the compliance dates in the rule that have not yet passed, pending judicial review, under section 705 of the Administrative Procedure Act. In addition, because Section 705 of the APA authorizes an Agency to postpone the effective date of an action pending judicial review, EPA issued a proposed rule on June 6, 2017 to postpone certain compliance dates in the rule in the event that the litigation ends, and while the Agency is undertaking reconsideration. On August 11, 2017 the Administrator announced his decision to conduct a rulemaking to potentially revise the new, more stringent BAT effluent limitations and pretreatment standards for existing sources in the 2015 rule that apply to bottom ash transport water and flue gas desulfurization (FGD) wastewater. In light of the reconsideration, EPA views that it is appropriate to postpone impending deadlines as a temporary, stopgap measure to prevent the unnecessary expenditure of resources until it completes reconsideration of the 2015 rule. Thus, the Administrator signed a final rule on September 9, 2017 postponing the earliest compliance dates for the BAT effluent limitations and PSES for bottom ash transport water and FGD wastewater in the 2015 Rule, from November 1, 2018 to November 1, 2020. This rule also withdraws EPA's notification of Postponement of Certain Compliance Dates under Section 705 of the Administrative Procedures Act that was published on April 25, 2017.

National Primary Drinking Water Regulations for Lead and Copper

The Lead and Copper Rule (LCR) reduces risks to drinking water consumers from lead and copper that can enter drinking water as a result of corrosion of plumbing materials. The LCR requires water systems to sample at taps in homes with leaded plumbing materials. Depending upon the sampling results, water systems must take actions to reduce exposure to lead and copper including corrosion control treatment, public education, and lead service line replacement. The LCR was promulgated in 1991 and, overall, has been effective in reducing the levels of lead and copper in drinking water systems across the country. However, lead crises in Washington, DC, and in Flint, Michigan, and the subsequent national attention focused on lead in drinking water in other communities have underscored significant challenges in the implementation of the current rule, including a rule structure that, for many systems, only compels protective actions after public health threats have been identified. Key challenges include the rule's complexity; the degree of flexibility and discretion it affords systems and primacy states with regard to optimization of corrosion control treatment; compliance sampling practices, which in some cases, may not adequately protect from lead exposure; and limited specific focus on key areas of concern such as schools. There is a compelling need to modernize and strengthen implementation of the rule-to

strengthen its public health protections and to clarify its implementation requirements to make it more effective and more readily enforceable. EPA is evaluating the costs and benefits of the potential revisions and assessing whether the benefits justify the costs

Cleaning Up Communities and Advancing Sustainable Development

EPA's regulatory program recognizes the progress in environmental protection and incorporates new technologies and approaches that allow us to provide for an environmentally sustainable future more efficiently and effectively.

Coal Combustion Residuals (CCR) Review

On April 17, 2015, the EPA promulgated a final rule that establishes minimum national criteria under subtitle D of the Resource Conservation and Recovery Act (RCRA) for Coal Combustion Residuals (CCR) landfills and surface impoundments at active coal fired power plants. The rule regulates surface impoundments and landfills that are actively accruing CCR, inactive surface impoundments still containing CCRs, and water both at operating power plants actively burning coal and those that burned coal in the past but have transitioned to use of an alternate fuel source. The requirements of the rule included: location restrictions (floodplains, wetlands, unstable areas, etc.); design criteria (liners, structural integrity criteria); operating criteria (e.g., run-on and runoff controls, inspections, fugitive dust controls); groundwater monitoring and corrective action; closure and post-closure care (e.g., final cover systems, 30 years of groundwater monitoring); and recordkeeping. At the time the final CCR rule was issued under subtitle D of RCRA, the EPA did not have the authority to enforce these criteria nor was the EPA authorized to approve state permit programs, as is the case for municipal solid waste landfills. Instead, the requirements of the CCR rule are directly applicable to owner/operators of facilities where disposal units are located and can be enforced via citizen suit or under the "imminent and substantial danger" authority of RCRA section 7002. Owner/operators are required under the rule to place notifications in their operating record, on their Web site, and in some instances provide notice to the directors of appropriate State agencies documenting the measures taken to comply with the rule.

The 2015 CCR Rule does not make a final Bevill regulatory determination as to whether CCRs warrant regulation as a hazardous waste under subtitle C of RCRA, but instead defers a final regulatory determination until the EPA has more information on specific matters influencing the risks posed by CCRs.

Subsequent to the promulgation of the 2015 CCR Rule, various environmental and industry groups submitted to the D.C. Circuit seven separate petitions for review, which were consolidated into a single action. On June 16, 2016, in response to the EPA's unopposed motion for voluntary remand of certain issues, the D.C. Circuit issued an order remanding with vacatur to the EPA specific provisions of the rule for

further consideration, and remanding without vacatur other issues. The EPA will consider the provisions remanded by the D.C. Circuit, as well as the issues raised in the 2017 petition and other implementation issues subsequently raised by stakeholders.

Reconsideration of the Accidental Release Prevention Regulations under Clean Air Act

Both EPA and the Occupational Safety & Health Administration (OSHA) issued regulations, as required by the Clean Air Act Amendments of 1990, in response to a number of catastrophic chemical accidents occurring worldwide that had resulted in public and worker fatalities and injuries, environmental damage, and other community impacts. OSHA published the Process Safety Management (PSM) standard (29 CFR part 1910.119) in 1992. EPA modeled the Risk Management Program (RMP) regulation after OSHA's PSM standard and published the RMP rule in two stages—a list of regulated substances and threshold quantities in 1994; and the RMP final regulation, containing risk management requirements, in 1996. Both the OSHA PSM standard and the EPA RMP regulation aim to prevent, or minimize the consequences of, accidental chemical releases to workers and the community.

On January 13, 2017, the EPA amended the RMP regulations in order to (1) reduce the likelihood and severity of accidental releases, (2) improve emergency response when those releases occur, and (3) enhance State and local emergency preparedness and response in an effort to mitigate the effects of accidents.

Having considered the objections to the RMP Amendments rule raised in various petitions, the EPA subsequently delayed the effective date of the RMP Amendments rule to February 19, 2019, in order to give the EPA time to reconsider the rule. Prior to the rule becoming effective, the EPA plans to take comment on specific issues to be reconsidered and consider possible regulatory actions to revise the RMP amendments.

Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residues from Electric Utilities: Remand Rule

The EPA is planning to modify the final rule on the disposal of Coal Combustion Residuals (CCR) as solid waste under subtitle D of the Resource Conservation and Recovery Act issued on April 17, 2015 (80 FR 21302). As a result of a settlement agreement on this final rule, the EPA is addressing specific technical issues remanded by the court. Further, the Water Infrastructure Improvements for the Nation Act of 2016 established new statutory provisions applicable to CCR units, including authorizing States to implement the CCR rule through an EPA-approved permit program and authorizing the EPA to enforce the rule. The EPA is considering amending certain performance standards in the CCR rule to offer additional flexibility to State permitting authorities with approved programs.

Clean Water Act Hazardous Substances Spill Prevention

As a result of a consent decree, the EPA is pursuing a rulemaking for the prevention of hazardous substance discharges under the Clean Water Act (CWA). The CWA hazardous substances and their associated reportable quantities (RQs) are identified in 40 CFR parts 116 and 117, respectively. The EPA will assess the consequences of hazardous substance discharges into the Nation's waters, and evaluate the costs and benefits of potential preventive regulatory requirements for facilities handling such substances.

Ensuring the Safety of Chemicals and Preventing Pollution

EPA acts under several different statutory authorities, including the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the Federal Food, Drug and Cosmetic Act (FFDCA), the Toxic Substances Control Act (TSCA), the Emergency Planning and Community Right-to-Know-Act (EPCRA), and the Pollution Prevention Act (PPA) to protect individuals, families, and the environment from potential risks of pesticides and other chemicals. Using sound science as a compass, the Agency will continue to satisfy its overall directives under these authorities and highlights the following efforts underway in FY 2018:

Frank R. Lautenberg Chemical Safety for the 21st Century Act Implementation.

Enacted on June 22, 2016, the Frank R. Lautenberg Chemical Safety for the 21st Century Act amended TSCA with immediate effect. The Agency is working aggressively to carry out the requirements of the new law. Among other things, EPA is now required to evaluate existing chemicals purely on the basis of the health risks they pose—including risks to vulnerable groups and to workers who may use chemicals daily as part of their jobs. If unreasonable risks are found, EPA must then take steps to eliminate these risks. In June 2017, EPA released scope documents for the initial ten chemicals for risk evaluation under the amended law. These documents identify what uses of the chemicals will be evaluated and how the risk evaluation will be conducted. In FY 2018, EPA will publish and take public comment on Problem Formulation documents which will refine the current scope of the risk evaluations prior to publication the draft risk evaluations in FY 2019.

EPA is also now required to systematically prioritize and evaluate chemicals on a specific and enforceable schedule. Within a few years, EPA's chemicals program will have to assess at least 20 chemicals at a time, beginning another chemical review as soon as one is completed. In June 2017, EPA promulgated final framework regulations addressing the procedures that EPA will employ to prioritize chemicals under TSCA for risk evaluation, as well as the procedures that EPA will follow to evaluate the risks of chemicals procedures. EPA also promulgated a final rule, per statutory requirements, to require chemical manufacturers to report on TSCA chemicals they have manufactured (including imported) within the past 10 years. Although the framework

regulations did not formally establish an approach to identify how chemicals will be selected as candidates for low- or high-priority designation, EPA will initiate a stakeholder process in FY 2018 with the objective of identifying approaches for bringing TSCA chemicals into the prioritization process. EPA will subsequently determine whether to amend the procedural regulations in consideration of the information obtained during the stakeholder process.

The new law also authorizes EPA cover a portion of its annual TSCA program costs by collecting user fees from chemical manufacturers and processors when they: submit test data for EPA review, submit a premanufacture notice for a new chemical or a notice of new use, manufacture or process a chemical substance that is the subject of a risk evaluation, or request that EPA conduct a chemical risk evaluation. The proposal and finalization of a fees rule is an EPA priority in FY 2018.

Finally, the new law requires EPA to promulgate by June 22, 2018 a final rule that establishes reporting requirements to facilitate the update of the inventory of the supply, trade, and use of mercury in the United States. EPA will issue a proposed rule in early FY 2018 and promulgate the final rule on or before the statutory deadline.

Reconsideration of Pesticide Safety Requirements

In FY 2017, EPA solicited comments this spring on regulations that may be appropriate for repeal, replacement, or modification in keeping with Executive Order 13777, entitled "Enforcing the Regulatory Reform Agenda." EPA also held a public meeting of the Pesticide Program Dialogue Committee in May 2017 that included session specifically devoted to receiving public feedback on potential pesticide regulatory reform opportunities for EPA's Regulatory Reform Task Force to consider. Although many commenters expressed their support for EPA's pesticide safety regulations, EPA also received comments that suggested specific changes to the January 4, 2017, Certification of Pesticide Applicators final rule (amending the requirements at 40 CFR 171) and to the November 2, 2015, Worker Protection Standard final rule (which amended the regulations at 40 CFR 170). EPA expects to publish separate Notices of Proposed Rulemaking in FY 2018 to solicit public input on revisions to these rules.

Annual Regulatory Costs

Section 3 of Executive Order 13771 (82 FR 9339, February 3, 2017) calls on agencies to "identify for each regulation that increases incremental cost, the offsetting regulations...and provide the agency's best approximation of the total costs or savings associated with each new regulation or repealed regulation." Each action in EPA's fall 2017 Regulatory Plan and Semiannual Regulatory Agenda contains information about whether an action is anticipated to be "regulatory" or "deregulatory" in fulfilling this executive directive. Based on current schedules and expectations regarding whether or not regulatory actions are subject to Executive Order 12866 and hence Executive Order

13771, in fiscal year 2018, EPA is planning on finalizing over 30 deregulatory actions and fewer than 10 regulatory actions. EPA expects the combined cost savings of its planned deregulatory actions to far outweigh the costs of its planned regulatory actions.

Rules Expected to Affect Small Entities

By better coordinating small business activities, EPA aims to improve its technical assistance and outreach efforts, minimize burdens to small businesses in its regulations, and simplify small businesses' participation in its voluntary programs. Actions that may affect small entities can be tracked on EPA's Regulatory Flexibility Web site (<https://www.epa.gov/reg-flex>) at any time. This Plan includes the following rules that may be of particular interest to small entities:

Rulemaking Title	Regulatory Identifier Number (RIN)
Financial Responsibility Requirements under CERCLA Section 108(b) for Classes of Facilities in the Hard Rock Mining Industry	2050-AG61
National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions	2040-AF15