

DAILY NEWS

Following Through On White House Memo, EPA 'Freezes' 30 Recent Rules

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EPA has delayed implementation of 30 rules issued in the Obama administration's final months in order to give the Trump administration time to review and possibly withdraw them, including its Risk Management Program (RMP) facility safety rule, the 2017 Renewable Fuel Standard (RFS) targets and the addition of vapor intrusion to Superfund site scoring.

The agency released on Jan. 24 a [notice](#) set for publication in the Jan. 26 *Federal Register* formally delaying implementation of all rules that have yet to take effect until at least March 21. It includes a list of 30 regulations that qualify for the extension, all of which were published between Oct. 28 and Jan. 17.

The rules whose deadlines are being prolonged include: the RMP rule; the final rule that added vapor and water intrusion to the reasons for placing a site on the Superfund National Priorities List; the 2017 RFS rule that boosted targets for renewable fuels above 2016 levels; updated requirements for certification of pesticide applicators; limits on formaldehyde emissions from composite wood products; air emissions standards for radon from uranium mining waste ponds; approval of Kentucky's authority to oversee Safe Drinking Water Act (SDWA) Class II permitting for oil and gas wastewater disposal wells in the state; and a host of Clean Air Act state implementation plan (SIP) approvals.

Each listed rule is currently scheduled to take effect on March 21, but the White House is leaving the door open to further delays even for the rules that are not ultimately withdrawn or reconsidered.

"Where appropriate, the Agency may consider delaying the effective dates of the above-referenced regulations beyond March 21, 2017. If the Agency were to do so, consistent with the memorandum of the Assistant to the President and Chief of Staff, the Agency would propose any later effective date for public comment," the notice says.

The two-month delay will give Trump officials a window to consider which of the last-minute rules issued by the Obama EPA they will target for withdrawal or modification, since rules that have already come into force are more difficult to walk back without legislative action.

Freezing recent rules is one step in implementing a [Jan. 20 memo](#) that White House Chief of Staff Reince Priebus sent to the heads of EPA and other agencies detailing a series of regulatory prohibitions and requirements for already- issued regulations. Along with extending the effective date of final rules, it also directs agencies to delay sending new rules to the *Register* and to withdraw any notices that had been scheduled for release but not yet published.

Industry Opposition

Many of the rulemakings covered by the Jan. 24 notice have faced significant industry opposition and have been seen as targets for administrative action in the early days of the Trump administration.

For instance, industry groups representing facilities subject to RMP mandates have already [weighed possible avenues](#) to roll back the update. They have argued that many of the new requirements increase regulatory burdens without improving safety at facilities, targeting in particular mandates for facilities to conduct independent audits and consider whether alternative chemicals or processes would improve safety.

The **2017 RFS targets**, by contrast, are likely to divide industry stakeholders, as ethanol proponents pressed for the boost to renewable-fuel targets that EPA included in the final rule, but the petroleum sector opposed it.

And the radon limits on uranium operations have **been seen as vulnerable to reversal** even though the rule is less stringent than environmentalists sought. For instance, it adopts a proposal to use work practice standards in lieu of the advocates' preferred avenue of stricter numeric air pollution limits, while reinstating some emissions monitoring mandates the agency had proposed to eliminate. Nonetheless, some industry groups have argued that EPA lacks authority to regulate the waste impoundment ponds at all.

The Trump administration faces less pressure to withdraw the **formaldehyde rule**, since both environmentalists and industry have welcomed its release. But one industry group, the Composite Panel Association, issued a statement shortly after the final rule was signed urging the incoming administration to enforce it vigorously -- stoking concerns that EPA might not see implementation as a priority even if it leaves the rule in effect.

And the **SDWA approval** for Kentucky's oil and gas well permit program was long-sought by the state but opposed by local advocates.

The regulatory freeze and reconsideration of recent rules is likely to be on the first step in rolling back much of the Obama EPA's regulatory agenda. Trump has long signaled that such a rollback would be a top priority, and those statements were reinforced when the White House, in one of its first official messages following the inauguration, pledged to undo Obama's climate action plan, which encompasses a host of EPA rules, as well as the agency's Clean Water Act jurisdiction rule.

And Chris Horner, a member of the Trump transition team at EPA, posted on his Facebook page Jan. 20 that "there's a good EPA (and related) action plan waiting for, let's hope, prompt and full execution beginning [Jan. 23]." -- *David LaRoss* (dlaross@iwppnews.com)