



April 2017

EPA Solicits Comments on Regulatory Reform

On April 13, the U.S. Environmental Protection Agency (EPA) published a request for comments to aid EPA's ongoing "[Evaluation of Existing Regulations](#)," which seeks to identify regulations that may be appropriate for repeal, replacement, or modification. Comments must be submitted by May 15, so parties interested in taking this opportunity to help EPA identify regulations that are burdensome or otherwise undesirable need to act quickly.

This notice follows President Trump's Feb. 24 [Executive Order on Enforcing the Regulatory Reform Agenda](#), E.O. 13777, which outlined the new administration's goal of alleviating unnecessary regulatory burdens. Pursuant to E.O. 13777, each federal agency must designate a Regulatory Reform Officer and establish a Regulatory Reform Task Force. EPA has already established both.

The Order specifically directs each agency's Regulatory Reform Task Force to evaluate existing regulations and make recommendations regarding their repeal, replacement, or modification. It also requires agencies to seek input from "entities significantly affected by Federal regulations" in performing their evaluations.

In seeking such input, the April 13 EPA notice directs commenters' focus to the criteria listed in E.O. 13777 requiring agencies to "at a minimum" identify regulations that:

- (i) eliminate jobs, or inhibit job creation;
- (ii) are outdated, unnecessary, or ineffective;
- (iii) impose costs that exceed benefits;
- (iv) create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;
- (v) are inconsistent with the requirements of section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note), or the guidance issued pursuant to that provision, in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that

- are insufficiently transparent to meet the standard for reproducibility; or
- (vi) derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.

E.O. 13777 and this request for comments create a significant opportunity for the regulated community to identify burdensome or otherwise undesirable regulations. While President Trump and others in the administration have expressed concerns regarding the economic burden environmental regulations place on the energy and mining sectors, EPA's regulatory programs impact almost every industrial sector, making it important for all industry stakeholders, as well as state and local governments to advocate for their regulatory reform priorities during this time of fast-paced change.

In soliciting comments, the EPA has requested that commenters be specific, include supporting data and cost information, and provide suggestions for repeal, replacement, or modification. The EPA is likely to receive a tremendous number of comments, including some that oppose any repeal of regulations and identify legal barriers to regulatory reform.

To increase the likelihood of repeal or modification of a particular regulation, it is crucial that commenters make a persuasive case for reform, provide all relevant cost and job growth data, and include suggestions that are consistent with the EPA's statutory authority and discretion.

Comments in response to this notice, [Docket No. EPA-HQ-OA-2017-0190](#), can be submitted online through May 15, 2017. Per E.O. 13777, all Executive Branch agencies are required to establish a Regulatory Reform Task Force and evaluate their regulations, so similar opportunities for advocacy in other regulatory areas are likely to follow.

This *GT Alert* was prepared by [Greenberg Traurig's Environmental Practice Group](#). Greenberg Traurig's environmental attorneys have substantial experience with every major EPA program and the implementing regulations. For more information or assistance on submitting comments to the EPA, contact a member of our team.

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