
EPA Doubles Down on Regulatory Reform Outreach, But is More Necessarily Better?

By William J. Walsh, Kenneth von Schaumburg, Jane C. Luxton, Karen C. Bennett / Apr 20, 2017

EPA continues to create mechanisms for stakeholders to use in submitting rule candidates for repeal, replacement, or modification, in implementation of the Trump Administration's regulatory reform Executive Orders (see [Regulatory Reform: A Closer Look at Opportunities and Challenges](#)).

In addition to the [April 13 EPA notice generally soliciting comments](#) (discussed in our previous alert [EPA Seeks Input on Regulations to be Repealed, Replaced, or Modified](#)), EPA has initiated [special outreach programs for small businesses](#), and for various program offices. Notices issued on [April 17 by EPA's Office of Land and Emergency Management](#) and [Office of Air and Radiation](#), for example, opened a comment docket and announced upcoming public meetings. On April 19, EPA made public a new [regulatory reform webpage](#) that lists public meetings and listening sessions and references a common comment docket for ten program offices during the next several weeks, all designed to facilitate input into EPA's regulatory review efforts. The comment deadline ends on May 15, 2017.

The proliferation of public meetings and avenues for public comment certainly provide ample opportunities for any interested party to weigh in on rules that should be considered for repeal, replacement, or modification. But how will EPA deal with the expected information overload? In response to its recent [Request for Information on regulatory reform and permit streamlining](#), the Commerce Department received more than 175 submissions, with multiple nominations for regulatory reform, and the EPA outreach is likely to generate even greater numbers (with 300 comments already in the docket as of April 20).

Rescission or modification of any existing rule requires a full regulatory proceeding, including development of a strong administrative record that can withstand legal challenge from well-funded opponents. Federal agencies are undergoing significant staff and resource reductions, and are not in a position to meet expectations of wholesale repeal of existing regulations. Simply identifying onerous rules and explaining why they are a problem will not be enough, in the competition that is sure to develop. Interested parties that want their highest priority rules to move to the front of the line will need to develop and execute savvy, well-supported strategies to ensure their regulatory reform candidates are the ones that actually cross the finish line and survive challenge in the courts.

Clark Hill attorneys are experienced in working with clients to develop effective legal strategies and advocacy approaches to address regulatory and deregulatory initiatives. For more information, please contact Karen C. Bennett at kbennett@clarkhill.com | (202) 572-8676; Jane C. Luxton at jluxton@clarkhill.com | (202) 572-8674; Kenneth von Schaumburg at kvonschaumburg@clarkhill.com | (202) 772-0904; William J. Walsh at wwalsh@clarkhill.com | (202) 772-0924; or another member of Clark Hill's Environment, Energy & Natural Resources practice group.