

ALERTS

Environmental Law Alert - Regulatory Freeze Puts Federal Environmental And Energy Regulations On Ice

January 26, 2017 | [Atlanta](#) | [Chicago](#) | [Columbus](#) | [Dallas](#) | [Delaware](#) | [Elkhart](#) | [Fort Wayne](#) | [Grand Rapids](#) | [Indianapolis](#) | [Los Angeles](#) | [Minneapolis](#) | [New York](#) | [South Bend](#)

On January 20, Reince Priebus, President Trump's chief of staff, issued a "regulatory freeze" memorandum halting federal rules that had not yet become effective. This type of memorandum, common following a change in administration, is directed to the "Heads of Executive Departments and Agencies." Specifically, the memorandum directs agencies to immediately withdraw regulations that have been sent to, but not published by, the Office of the Federal Register so that the new administration can review those rules.

The memorandum further directs the federal agencies to suspend for 60 days all proposed and final regulations that are published in the Federal Register but have not yet become effective. The new administration is deferring implementation of these rules "for the purpose of reviewing questions of fact, law, and policy they raise," thereby giving the new administration an opportunity to review the pending rules. The memorandum contains an exception for rules involving "emergency situations or other urgent circumstances relating to health, safety, financial, or national security matters."

For example, this freeze will affect four key energy efficiency rules involving [walk-in cooler and freezer systems](#), [portable air conditioners](#), [commercial boilers](#) and [backup battery power](#). These rules were issued for pre-publication notice on December 28, 2016, but as the result of the statutorily required 45-day waiting period on publishing energy efficiency rules, the new rules have not yet been published in the Federal Register. Accordingly, this memorandum allows presumptive Energy Secretary Rick Perry to review and potentially redevelop these pending rules.

On January 26, [EPA published in the Federal Register](#) a complete list of 30 rules that are subject to the memorandum's 60-day postponement period. The freeze will delay the effectiveness and allow further EPA consideration of a number of state implementation and attainment plans under the Clean Air Act as well as standards for renewable fuels, partial deletion of a Superfund site from the NPL, and new formaldehyde and revised radon emissions standards.

[A number of pending rules](#) promulgated pursuant to the recently-adopted infrastructure and pipeline safety legislation (PIPES Act of 2016), administered by the Department of Transportation's Pipeline and Hazardous Materials Safety Administration, will also be delayed pending the outlined review process.

While this regulatory freeze affects a number of pending federal rules, the

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memorandum does not suggest that the incoming administration intends to reject all, or even most, of those pending rules. Rather, the memorandum provides the new agency executives the opportunity to review and accept, reject or potentially redevelop the rules.

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