

EPA Requests Public Comments Recommending Regulations To Repeal, Replace, Or Modify By May 15, 2017

by Colin Wicker

On February 24, 2017, President Trump issued Executive Order 13777, “Enforcing the Regulatory Reform Agenda,” as part of the White House’s efforts to reduce federal regulatory burdens on business. Among other things, the Executive Order requires agencies to establish Regulatory Reform Task Forces to evaluate existing regulations and make recommendations to agency heads of regulations to repeal, replace, or modify. Pursuant to this Executive Order, EPA Administrator Scott Pruitt established the EPA’s Regulatory Reform Task Force. On April 13, 2017, the newly-formed EPA Task Force published a Request for Comment in the Federal Register, 82 Fed. Reg. 17793. In its request, the EPA Task Force solicited public comments on regulations the EPA should consider repealing, replacing, or modifying.

The Executive Order sets forth specific criteria to use in identifying regulations to repeal, replace, or modify, and those same criteria were provided in the request the EPA published in the Federal Register. The EPA Task Force is attempting to identify regulations which: “(i) eliminate jobs, or inhibit job creation; (ii) are outdated, unnecessary, or ineffective; (iii) impose costs that exceed benefits; (iv) create serious inconsistency or otherwise interfere with regulatory reform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 standards of reproducibility; or (vi) derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.”

Given the strong focus on reducing regulatory burdens at the White House and from EPA Administrator Pruitt, the EPA Task Force will likely seek to recommend a number of repeals, replacements, or modifications. Thus, its request provides a good opportunity for companies to make proposals in this regard, early in the EPA’s consideration of regulatory reform. The EPA has asked that commenters be specific about the changes

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they are recommending, so commenters should provide CFR or Federal Register citations for the existing regulations and state exactly how they believe those regulations should be modified, removed, or replaced. Commenters should also explain how their recommendations fit with the stated criteria, and include supporting data and information when appropriate. For example, a contention that a particular regulation is overly burdensome will carry more weight if information on the costs the regulation imposes on industry are included. EPA does not plan to respond to individual comments but will consider all the input it receives by its May 15, 2017 deadline.

Any comments should be filed in Docket EPA-HQ-OA-2017-0190 at <http://www.regulations.gov> and are due by **May 15, 2017**.

For more information, please contact Andrew Brown, brown.andrew@dorsey.com or Jim Rubin, rubin.jim@dorsey.com.