

Five Key Takeaways from EPA's Deregulatory Initiative

3/18/2025

On March 12, U.S. Environmental Protection Agency (EPA) Administrator Lee Zeldin [announced](#) a major deregulatory initiative founded on “President Trump’s promise to unleash American energy, lower cost of living for Americans, revitalize the American auto industry, restore the rule of law, and give power back to states.” As part of the initiative, and as outlined in subsequent [press releases](#) by the agency, EPA intends to reconsider several dozen specific rules and categories of rules or programs, which ultimately will affect many additional individual regulations and agency actions, including those related to power plants, the oil and gas industry, electric vehicles, and manufacturing sectors.

Here are five key takeaways from EPA’s announcement.

1. Rulemaking Is a Lengthy Process — and So Is the Process of Reconsidering Rules.

Some of the announced actions can be taken relatively quickly. EPA can close an office or issue certain guidance without going through public comment. However, most of the announced actions involve revisiting existing regulations, such as the [Mercury and Air Toxics Standards](#), the rules governing new and existing emissions in the oil and gas sector (e.g., [Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review](#)), and the [Mandatory Reporting of Greenhouse Gases](#) rule. To rescind or revise these and other regulations will require EPA to follow the same legal process used to promulgate those rules in the first instance, including notice and public comment. Any final agency actions will be subject to judicial review — and are likely to attract concerted opposition from states and nongovernmental organizations that disagree with the new administration’s policy choices. The history of similar efforts over the past 25 years following changes in U.S. administrations suggest those processes are generally multiyear.

2. A Reasonable Explanation Must Accompany a Change in Regulatory Course — Without the Benefits of *Chevron* Deference.

For many of the contemplated actions, EPA will need to explain its decision to change course.¹ This will require the agency to explain why it now views the facts and legal principles underlying its former decision differently as well as to provide record evidence and arguments to support its new position. In general, EPA’s explanations in changing course will be set aside only if arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. Still, that could prove challenging absent new data

or changes in the authorizing law.

Moreover, if EPA is advancing new legal interpretations of its authority, it will be doing so without the benefit of *Chevron* deference. Previously courts would have deferred to EPA's interpretation of an ambiguous provision of the Clean Air Act or other federal law it implements so long as the agency's interpretation was considered a reasonable reading of the statute. Now, following the Supreme Court's [Loper Bright](#) decision, courts will not defer to EPA's interpretation of the law but instead will use their own judgment in determining the statute's best interpretation. That could constrain EPA's efforts to change course.

3. EPA's Power to Stay Existing Rules Is Narrow.

In the meantime, most of the rules identified by EPA's announcement are in place, and EPA generally cannot stay a final rule unilaterally. While an agency may, in some instances, postpone the effective date of a rule that is not yet effective, courts have found that an agency may not stay an effective rule or delay compliance deadlines of such rule without first going through a notice-and-comment rulemaking. Another approach EPA may consider is taking immediate regulatory action without notice-and-comment rulemaking, but there are only limited instances — not likely present here — where an agency may promulgate such a direct final rule.

4. Relying on Enforcement Discretion While EPA Reconsiders Existing Regulations Presents Risks to Stakeholders.

EPA may choose to blunt the burdens imposed by a rule under reconsideration by exercising its discretion not to focus its enforcement resources on the rule, but that would still leave industry stakeholders at risk. A March 12, 2025, EPA [memorandum](#) from the Acting Assistant Administrator for Enforcement and Compliance Assurance stated that the agency will align its enforcement priorities with its new policies and so, for example, would no longer “focus on methane emissions from oil and gas facilities.” However, even if EPA reduces its focus, under most federal environmental laws, nongovernmental parties, including environmental groups, states, and municipalities, can bring citizen's enforcement suits. Further, states may independently enforce federal environmental laws through authority delegated by EPA. While EPA does not state that it will not enforce the regulations it is reconsidering, if EPA were to advance a broad no-enforcement policy, it likely would be challenged in court. Indeed, an EPA “no-action assurance” memorandum not to enforce a Clean Air Act rule under the first Trump administration was [stayed](#) by the D.C. Circuit and ultimately withdrawn by the agency. Additionally, parties must remember that an assurance by one administration not to enforce does not mean that the next administration will do the same, and many statutes of limitations will extend past the current administration.

5. EPA Prioritizes Promoting Domestic Energy Production and Ends Focus on Climate Regulations and Environmental Justice.

The heart of EPA's initiative is promoting domestic energy production and reducing regulatory burdens, consistent with President Trump's recent executive orders (e.g., “[Unleashing American Energy](#)”) and Administrator Zeldin's “[Powering the Great American Comeback](#)” initiative for EPA. To accomplish this, the deregulatory effort focuses in part on climate-related regulations as well as EPA's 2009 [endangerment finding](#) that underpins much of EPA's Clean Air Act climate rules. The announced

deregulatory actions are aimed at “unleash[ing] American energy” by lowering the burdens on domestic energy producers and ending the prior administration’s focus on environmental justice. These actions included a directive to revise the agency’s National Enforcement and Compliance Initiatives in accordance with Administrator Zeldin’s policy goals.

As a companion to this directive, the memorandum noted above explains, “environmental justice considerations shall no longer inform EPA’s enforcement and compliance assurance work,” and the agency will not take actions to “shut down any stage of energy production (from exploration to distribution) or power generation absent an imminent and substantial threat to human health or an express statutory or regulatory requirement to the contrary.”

EPA’s deregulatory plan aims to boost domestic energy production and reduce regulatory costs but will face challenges where revised rules must go through what can be a lengthy and complex rulemaking process — followed by litigation. The agency’s efforts are expected to be complicated further by limitations on available internal expertise and resources, potentially exacerbated by ongoing government efficiency initiatives and budget uncertainties.

¹See [FCC v. Fox](#).

CONTACTS

If you have any questions regarding this Sidley Update, please contact the Sidley lawyer with whom you usually work, or

Timothy K. Webster , Partner	+1 202 736 8138, twebster@sidley.com
Samuel B. Boxerman , Partner	+1 202 736 8547, sboxerman@sidley.com
Brittany A. Bolen , Partner	+1 202 736 8416, bbolen@sidley.com
Lauren E. DeCarlo , Managing Associate	+1 312 853 4165, lauren.decarlo@sidley.com

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