



A LOOK BACK AT 2017

The year 2017 brought with it a lot of change. We saw the first tangible impacts of a new administration and policy revisions, including Environmental Protection Agency's (EPA) [back-to-basics agenda](#) focused on enhancing economic growth. The changes in 2017 are anticipated to continue into 2018, so we've pulled together a summary of some of the top issues and what you need to know about each:

Rebuilding the nation's infrastructure

With a growing nation and aging infrastructure, upgrading U.S. water supplies, bridges, roads, dams, airports, railways, water treatment, and waste were some of the prominent topics in 2017. In May 2017, the Trump Administration proposed a \$1 trillion public/private infrastructure investment for the 2018 budget. The plan's [fact sheet](#) outlined that \$200 billion in Federal funding would be allocated for infrastructure projects for the next decade, and that the Administration would seek to enhance the environmental review and permitting process.

This means that the Federal government may cut down on regulations on infrastructure projects, but it also calls for states and localities to provide a majority of funds for projects. While the infrastructure plan was [pushed back](#) in the legislative agenda, the Administration expects to roll out a final proposal this month.

Accelerating NEPA

Executive Order (EO) 13807, "Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects," was issued by President Trump on August 15, 2017. The EO, which targets infrastructure projects (e.g., surface transportation; water resources projects; energy production and generation; electricity transmission; pipelines; and stormwater/sewer infrastructure), was issued in an effort to increase the coordination, predictability, and transparency of Federal review and permitting processes.

In particular, the EO states that environmental reviews and authorization decisions for new infrastructure projects should take no more than two years (on average), from the publication date of the notice of intent. This is a major change from current policy, which does not specify a timeframe for completion of National Environmental

Policy Act (NEPA) reviews. For reviews completed in 2016, the median time frame for completion of NEPA environmental impact statements was over 4 years, with infrastructure projects typically taking more than 10 years ([CEQ 2017](#)). An “Initial List of Actions to Enhance and Modernize the Federal Environmental Review and Authorization Process” was published in the Federal Register on September 14, 2017, and included actions to simplify and accelerate the NEPA process.

Redefining regulation of waterways

The EPA and the U.S. Army Corps of Engineers (USACOE) [proposed to repeal](#) the Waters of the United States (WOTUS) Rule in June 2017. This repeal would mean returning to the 1986/1988 Regulatory Definition of WOTUS. The [proposal](#) also called for re-evaluating and redefining WOTUS in a new rule. The agencies held outreach meetings in 2017 to hear from stakeholders in various sectors and are currently in the process of reviewing the WOTUS rule and considering a revised definition. EPA expects to take final action in early 2018.

Last year also marked the update of nationwide permits and additional permit recommendations. The USACOE uses the Nationwide Permit System to authorize limited impacts to WOTUS. In support of [Presidential EO 13783](#) on “Promoting Energy Independence and Economic Growth,” the USACOE has reviewed and provided recommendations for 12 Nationwide Permits, and these changes are expected to be implemented in 2018.

Streamlining permitting on Federal land

Proposed House [Bill 4239](#) was introduced by the Committee on Natural Resources in early November 2017. If made into law, states with established permitting and regulatory programs concerning oil and gas development will be given the opportunity to regulate drilling leases on Federal land. The Secretary will determine which states can adequately regulate the leasing process in lieu of the existing Federal process, which would streamline the permitting. Additionally, Bill 4239 aims to increase the amount of Federal land available for drilling (16% of land available at this time), and the streamlined permitting process would incentivize oil and gas developers to lease Federal land. Note that Bill 4239 is still in its early stages, and must be passed by the House, the Senate, and signed into law by the President.

Restoring Superfund cleanup

EPA Administrator, Scott Pruitt, appointed a ‘Superfund Task Force’ (Task Force) in early 2017. The goal of this task force was to revitalize the [Superfund program](#) and spur cleanup at the 1,341 [National Priorities](#) List sites. The Task Force proposed 42 [initiatives](#) designed to expedite cleanup, spur economic growth, and increase [brownfield](#) investment opportunities. These initiatives aim to provide benefit to communities by promoting redevelopment, encouraging community involvement, and creating jobs. This initiative will also provide mechanisms to streamline cleanup efforts, reduce regulatory regulation and oversight cost, and promote collaboration with regulatory agencies to meet cleanup goals.

Pursuing certainty in hazardous waste program

The final rule for Resource Conservation and Recovery Act’s (RCRA) hazardous waste generator regulatory program revisions became effective May 2017 in states/territories where EPA administers the RCRA program. RCRA-authorized states will need to adopt the rule to have the new provisions become effective. The generator

rules were originally promulgated back in 1980, so EPA proposed **changes** to make the regulations more understandable, provide greater flexibility in how hazardous waste is managed, and protect emergency responders by improving risk communication.

The **final rule** allows “Very Small Quantity Generators” (VSQG) to send hazardous waste to a “Large Quantity Generator” (LQG) under control of the same person. The advantage is that waste can be consolidated at the LQG before sending it on to management at a RCRA-designated facility. Another substantial change would allow a VSQG or a Small Quantity Generator (SQG) to maintain its existing generator category in the event it generates a quantity of hazardous waste in a calendar month that would otherwise bump the generator into a more stringent category. The final rule promulgates over 60 revisions and new provisions to the hazardous waste generator regulatory program.

Continuing evolution of air regulations

As a result of deregulatory efforts by the new Administration, 2017 resulted in considerable changes to several air regulatory programs, particularly those affecting the oil and gas sector. As implementation of the Bureau of Land Management’s (BLM) “venting and flaring” rule began, BLM lost a court decision regarding a stay of the rule. As a result, the BLM issued a **final rule in December 2017** postponing significant aspects of the rule until January 2019, with further important changes expected to be finalized in early 2018.

EPA also began a rulemaking process expected to result in major proposed changes to the New Source Performance Standards Subpart OOOOa regulation in 2018. As the petroleum refining industry continues to implement the “Refinery Sector Rule,” including fence-line monitoring programs, the EPA has issued several rule clarifications, and in some instances has granted compliance extensions. EPA also signaled that there will likely be changes to the EPA New Source Review air permitting regulations in the near future.

Questions or want more information?

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verb: research or make inquiries into something
synonyms: investigate, inquire into, probe, explore, research, look into