

Trump Air Emissions Carveouts Cloud The Regulatory Picture

By **Tim Sowecke and Tyler Self** (July 24, 2025)

On July 17, President Donald Trump signed four new proclamations that rely on Section 112(i)(4) of the Clean Air Act, granting two-year exemptions from the U.S. Environmental Protection Agency's recently enacted air toxics standards for key U.S. industries.

Under Section 112(i)(4), the president has the authority to exempt a stationary source from compliance with any standard or limitation under the hazardous air pollutants program if he determines that the technology to implement such standards is not available, and that it is in the national security interest of the U.S. to grant such an exemption.

Aimed at bolstering American industry and national security, these proclamations delay compliance, citing unavailable technology and strategic interests, for coal-fired power plants, chemical manufacturers, medical sterilization facilities and taconite iron ore processors.

This move is framed as aligning with Trump's campaign promise to "put American workers and security first" by easing what he deems "burdensome" and job-killing regulations.

The use of Section 112 presidential exemptions in these orders represents a significant regulatory shift from agency authority to executive authority. While the Trump administration has framed the exemptions as necessary to protect national security and industrial resilience, the legal durability of such a tactic remains uncertain.

Nevertheless, these proclamations continue the Trump administration's promise to prioritize U.S. industrial capacity and perceived national security over near-term tightening of emission limits. While they do offer short-term relief, they also invite judicial scrutiny, and set a precedent for future administrations to leverage national-security carveouts.

Coal-Fired Power Plants

One of the proclamations extends the compliance deadline by two years for the EPA's May 7, 2024, residual-risk review of the Mercury and Air Toxics Standards.[1]

Under the exemptions, units at Tri-State Generation & Transmission in Colorado; City Water, Light & Power in Illinois; and Cardinal Operating Co. in Ohio may continue operating under the prerule standards until July 8, 2029.[2]

The proclamation emphasizes that commercially viable controls do not yet exist, and that uninterrupted coal generation is "essential to grid reliability and affordable energy."

Chemical Manufacturing

Another of the proclamations targets the EPA's May 16, 2024, Hazardous Organic NESHAP Rule, which imposed new hazardous-air-pollutant controls on synthetic organic chemical



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producers.[3]

The exempted facilities include major resin, polymer and petrochemical sites, which are now exempted from Section 112 deadlines for two years beyond their original compliance dates. This proclamation covers 25 companies that operate 53 facilities combined, representing a significant share of the U.S. chemical sector.[4]

The proclamation warns that forcing premature plant shutdowns or massive capital outlays would disrupt semiconductor, defense, healthcare and agricultural supply chains, which are vital to national resilience.

Ethylene Oxide Sterilization

Another proclamation delays the EPA's April 5, 2024, ethylene oxide emissions standards for commercial sterilizers by two years.[5]

Ethylene oxide is widely used in the sterilization of medical equipment that cannot withstand traditional steam sterilization. It is also a listed hazardous substance under the Comprehensive Environmental Response, Compensation, and Liability Act, also known as the Superfund law, and is a known carcinogen with significant volatility, making it a risk for air emissions and occupational exposure.

The exemption allows dozens of U.S. sterilization facilities to continue operation while deferring the emission requirements.[6] The proclamation frames this exemption as necessary for preserving critical medical-device supply amid technology gaps and security needs.

Taconite Iron Ore Processing

The remaining proclamation postpones for two years the EPA's March 6, 2024, Taconite Rule, which imposed new emissions-control requirements on facilities that process taconite, a low-grade iron ore that is primarily mined and processed in Minnesota and Michigan.[7]

Maintaining the previous emission limits, the proclamation contends that relief is necessary to sustain domestic steel capacity and infrastructure readiness.[8] This rationale is reinforced by the continuously increasing tariffs on foreign steel and similar manufactured products.

Implications for Environmental Law

These proclamations underscore a growing tension between presidential discretion and agency expertise under the Clean Air Act.

By invoking Section 112, the president effectively sidesteps the EPA's technical determinations about achievable emissions controls, a domain traditionally rooted in scientific and engineering assessments. The presidential exemption under Section 112 is narrow and rarely used — it was arguably not designed to accommodate sweeping exemptions outside of narrowly defined circumstances.

An overuse of this empowerment raises separation of powers questions. Courts may be asked to determine whether "national security" and "technology unavailability" can override mandated pollution standards without clear statutory thresholds. Indeed, overuse of the exemption threatens the role of administrative agencies acting as experts in determining

the science that supports regulations.

Industry stakeholders will likely press for similar relief in future rulemakings, arguing that ambitious environmental safeguards must account for real-world implementation challenges.

Conversely, environmental advocates will challenge these exemptions as legislative in form but executive in origin, potentially seeking injunctions on grounds that the president exceeded authority, or that public notice-and-comment requirements were bypassed.

Notably, presidential exemptions under Section 112 mandate that the president report to Congress with respect to each exemption. It remains to be seen if Trump will follow through with providing reports to Congress and what, if any, further information will be provided to support the exemptions. To date, Trump has shown a reluctance to acknowledge congressional oversight.

Ultimately, these orders test the balance between durable environmental protections and the flexibility to adapt regulation when compliance appears technically or economically impracticable, and courts will likely be called on to define the parameters of presidential authority under Section 112, particularly when the exemption bypasses an agency's technical findings or otherwise undermines rulemaking procedures.

Further Thoughts

These exemptions will likely generate swift legal challenges from environmental groups and potentially state attorneys general. They may argue the president overstepped statutory bounds or failed to justify the national security and technological findings required under Section 112.

In response, the EPA may respond in future rulemakings by tightening definitions and compliance deadlines to limit room for executive carveouts. Further, states with empowered independent regulatory programs, such as California, may continue the trend of enacting stricter environmental standards, contributing to an already fragmented compliance landscape.

For regulated entities, this temporary relief offers a valuable opportunity to test emissions-reduction technologies, build detailed records of technical limitations and engage with the EPA on flexible implementation strategies.

This issue presents both opportunity and risk for industry. While exemption may delay compliance obligations, it will also create uncertainty about future regulations.

Stakeholders in affected and related industries should monitor any ensuing litigation, engage proactively in EPA rulemaking revisions and drafting, and consider any state-level compliance changes made in response, if any.

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[1] National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units Review of the Residual Risk and Technology Review, May 7, 2024, <https://www.federalregister.gov/documents/2024/05/07/2024-09148/national-emission-standards-for-hazardous-air-pollutants-coal--and-oil-fired-electric-utility-steam>

[2] Regulatory Relief for Certain Stationary Sources to Further Promote American Energy, July 17, 2025, <https://www.whitehouse.gov/presidential-actions/2025/07/regulatory-relief-for-certain-stationary-sources-to-further-promote-american-energy/>.

[3] New Source Performance Standards for the Synthetic Organic Chemical Manufacturing Industry and National Emission Standards for Hazardous Air Pollutants for the Synthetic Organic Chemical Manufacturing Industry and Group I & II Polymers and Resins Industry, https://www.epa.gov/system/files/documents/2024-04/san9327_hon_pr-i-and-ii_socmi-nsps_final_preamble.prepublication.pdf.

[4] Regulatory Relief for Certain Stationary Sources to Promote American Chemical Manufacturing Security, July 17, 2025, <https://www.whitehouse.gov/presidential-actions/2025/07/regulatory-relief-for-certain-stationary-sources-to-promote-american-chemical-manufacturing-security/>.

[5] National Emission Standards for Hazardous Air Pollutants: Ethylene Oxide Emissions Standards for Sterilization Facilities Residual Risk and Technology Review, April 5, 2024, <https://www.federalregister.gov/documents/2024/04/05/2024-05905/national-emission-standards-for-hazardous-air-pollutants-ethylene-oxide-emissions-standards-for>.

[6] Regulatory Relief for Certain Stationary Sources to Promote American Security with Respect to Sterile Medical Equipment, July 17, 2025, <https://www.whitehouse.gov/presidential-actions/2025/07/regulatory-relief-for-certain-stationary-sources-to-promote-american-security-with-respect-to-sterile-medical-equipment/>.

[7] National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing, March 6, 2024, <https://www.federalregister.gov/documents/2024/03/06/2024-02305/national-emission-standards-for-hazardous-air-pollutants-taconite-iron-ore-processing>.

[8] Regulatory Relief for Certain Stationary Sources to Promote American Iron Ore Processing Security, July 17, 2025, <https://www.whitehouse.gov/presidential-actions/2025/07/regulatory-relief-for-certain-stationary-sources-to-promote-american-iron-ore-processing-security/>.