

## Chapter 7

# Understanding the Clean Air Act Regulatory “Trainwreck”

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**§ 7.01. Introduction**

The United States Environmental Protection Agency (EPA) has issued, or is in the process of proposing and finalizing, multiple Clean Air Act (CAA) regulations that will affect the generation of electricity, in particular, electric generation from coal-fired utility boilers. Within the electrical power sector and within many major industry groups that rely on electrical power, the imposition of various CAA rules over the next three to five years has been referred to as a “trainwreck” that will impose massive fuel switching from coal to natural gas, substantially increase the cost of electricity, and seriously impede economic recovery. EPA and other commentators have claimed that such predictions are overblown and that the net effect of the new regulations on the electric sector will be close to negligible. Part of their argument relies on the prediction that low natural gas prices will force substantial changes to the generation of electricity “anyway” and that new regulations largely serve to codify actions that are primarily driven by the economic forces.

This chapter provides an overview of the most significant CAA rulemakings that affect the power generation sector, reviews the status of pending litigation, and attempts to parse the combined effect of these rules on the energy sector. Section 7.02 of this chapter offers a substantive description of major CAA rules, including (i) the Mercury Air Toxics Standard (MATS) rule; (ii) the recently promulgated (and subsequently vacated) Cross-State Air Pollution Rule (CSAPR) designed to address the interstate transport of sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>), primarily from the power sector; and (iii). EPA’s 2009 benchmark endangerment determination for greenhouse gas (GHG) emissions and related rules to regulate GHG emissions from light duty vehicles and implement CAA permit requirements for stationary sources. Section 7.03 of this chapter describes the regulatory timeline for the major new CAA rules. Section 7.04 reviews ongoing litigation regarding CAA rules and possible outcomes of this litigation. Section 7.05 briefly discusses other, non-CAA rules impacting utilities. Finally, Section 7.06 looks at the projected