

Clients & Friends Memo

President Trump's Executive Order on State Climate Change Policies

April 14, 2025

On April 8, 2025, President Trump issued an executive order (the "**Order**") to protect "American Energy from State Overreach." <https://www.whitehouse.gov/presidential-actions/2025/04/protecting-american-energy-from-state-overreach/> The Order states that it is necessitated because certain States promulgated "climate change" policies and requirements that are burdensome for American energy producers and consumers. The Order lists as examples of these ideologically-motivated and "illegal" State requirements: the State of New York and Vermont retroactive "compensatory payments" imposed on energy producers for their greenhouse gas emissions presently and in the past; another example is California "impossible" cap and trade carbon program. The Order states that these State laws "undermine Federalism by projecting the regulatory preference of a few States into all States."

The Order directs the U.S. Attorney General ("**US AG**") to: first, identify "all State and local laws, regulations, causes of action, policies, and practices (collectively State laws) burdening the identification, development, siting, production, or use of domestic energy resources that are or may be unconstitutional, preempted by Federal law, or otherwise unenforceable." The US AG is specifically instructed to prioritize identification of State laws addressing "climate change" or "environmental, social and governance" and "environmental justice" and funds to collect to carbon penalties and "carbon taxes." Second, the order directs the US AG to "expeditiously take all appropriate action to stop the enforcement of State laws" that US AG determines to be "illegal." Third, the order instructs the US AG to prepare a report regarding actions taken as directed by this Order. Finally, the order directs the US AG to recommend any additional Presidential or legislative actions necessary to "stop the enforcement of State laws" identified in the Order.

From a practical perspective, it remains to be seen how individual States and courts will interpret this Order and what standards US AG will apply in determining which of the State laws are "illegal." It is also possible that this Order will be challenged in courts if the States allege that the Order and the actions mandated for US AG are unconstitutional. In the meantime, until further guidance is delivered by the federal government and unless individual States suspend application of State laws, market participants affected by State laws should continue compliance with State policies and requirements. It is also imperative that market participants review their investment and

trading portfolios and contracts to determine if, and to what extent, they may be impacted by the provisions of the Order and particularly if US AG were to take specific “appropriate actions” mandated by the Order.

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If you have any questions, please feel free to contact any of the following Cadwalader attorneys.

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