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Air & Climate Report: February 2022

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With the first month of 2022 already past, predictions of a busy year for air and climate policy are starting to come true.

On the regulatory front, EPA appears to have picked up the pace on some long-stalled rulemaking initiatives, including its pending proposal to reaffirm the determination that regulating mercury and other hazardous air pollutants from the electric utility sector is “appropriate and necessary,” even after considering the costs of compliance (stay tuned to our blog for more on that development soon). In addition, EPA has already released some significant proposals this year on specific contaminants, such as ethylene oxide (EtO) and perfluoroalkyl substances (PFAS), that will be worth watching. There is plenty more still on the way too, like the promised supplemental proposal on methane for the oil and gas sector (perhaps this time with rule text) and a much anticipated third attempt to regulate CO₂ from power plants.

The new year also promises significant developments in litigation, with some key cases now reactivated and ready for decision, such as the long-running dispute over how state regulations should address startup, shutdown, and malfunction events. And, of course, the most important air case in a decade is well underway at the Supreme Court, as the justices prepare to hear arguments later this month on the scope of EPA’s authority to regulate greenhouse gases from existing power plants under Section 111 of the Clean Air Act. The cases, likely to be decided in the next few months, could fundamentally change the legal landscape of air policy and beyond.

With a number of significant developments on the horizon, we hope in the meantime you will take a minute to check out our news and updates from the final quarter of 2021 and the beginning of this already busy new year.

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