

How Trump's Regulatory Rollback for America's Energy Producers is Gaining Momentum

Legal Challenges and Market Forces Likely to Hinder Push for Deregulation

Industry Insight

Federal agencies have reacted quickly to President Trump's executive order, issued in March 2017, on reducing undue burdens on domestic energy production. On February 16, the Department of the Interior (DOI) announced the date for the largest sale of oil and gas leases in U.S. history. Scheduled for March 21, the sale will include all available areas in federal waters of the Gulf of Mexico. However, over the past year, the administration's push for deregulation has prompted numerous legal challenges creating uncertainty in the industry.

#1: Deregulation of Fossil Fuels and Power

BLM Proposes to Roll Back Methane and Waste Prevention Rule

On February 12, the DOI's Bureau of Land Management (BLM) proposed to downgrade the 2016 Methane and Waste Prevention Rule back to the 30-year-old regulations on flaring, venting, and natural gas leaks from oil and gas production. 

BLM Opens California Desert to Mining

On February 6, BLM canceled a proposal developed under the Obama administration to withdraw 1.3 million acres of CA Desert Conservation Area from new mining activity. According to the BLM, future exploration would not significantly harm the environment. 

BLM Cuts Reviews in Oil and Gas Leasing Process

On January 31, BLM eliminated duplicative layers of environmental review on oil and gas leasing on federal lands with the removal of so-called master leasing. The notice indicated that a sale should proceed even if all protests had not been resolved. 

EPA Scales Down Haze Rule for Arkansas

On January 29, EPA approved a more flexible plan for Arkansas to limit emissions of nitrogen oxide from coal-fired power plants in lieu of a more costly federal program imposed under the Obama administration. 

EPA Withdraws 1995 Clean Air Act Provision

On January 25, EPA removed a 1995 Clean Air Act provision that forbade the reclassification of facilities categorized as "major sources" of hazardous air pollution even after their emissions drop below the major source threshold. 

DOI to Open 90 Percent of Outer Continental Shelf to Oil and Gas Development

On January 4, DOI proposed to open more than 90% of the outer continental shelf acreage for oil and gas development under its 2019-2024 draft program, in a sharp reversal from the current rules that put 94% of acreage off limits. 

DOI Repeals 2015 Hydraulic Fracturing Rule

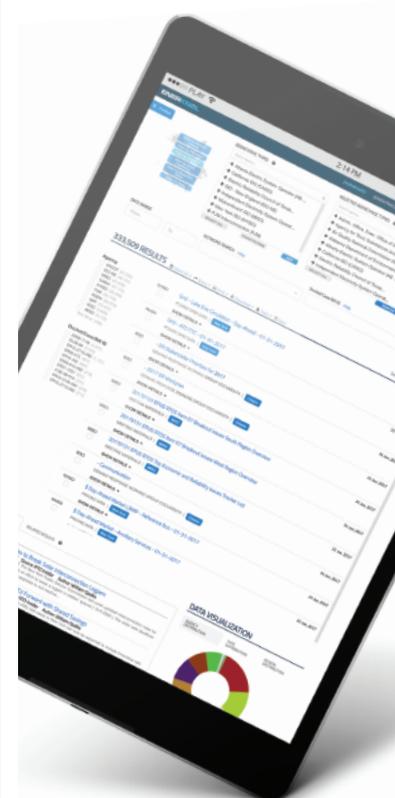
On December 29, DOI issued a final rule repealing its 2015 regulation governing hydraulic fracturing on federal lands citing unjustified administrative burdens and compliance costs. 

DOE Proposes to Revise Appliance Efficiency Rules

On November 28, DOE proposed to revise Appliance and Equipment Energy Conservation Standards program with a market-based approach by allowing manufacturers to use averaging, credit trading, or feebates to meet the rules. 



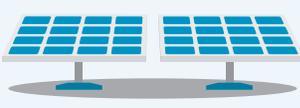
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#2: Legal Challenges: Efficiency, Solar, Ozone

Canadian Companies Challenge Tariffs on Imported Solar

On February 7, Silfab Solar, Heliene, and Canada Solar Solutions filed a lawsuit in the U.S. Court of International Trade in New York, alleging that the tariffs imposed on imported solar panels violate the Trade Act and NAFTA. Plaintiffs noted the ITC's finding that Canadian imports do not meet the prerequisites for inclusion of a NAFTA country in a global safeguard action and that cells and modules imported from Canada do not account for a 'substantial share' of total imports, and do not contribute significantly to the harm. They sought an injunction prohibiting enforcement against them. 

Court Rules DOE Illegally Delayed Efficiency Standards Implementation

On February 15, a federal court ruled the Department of Energy illegally stalling a suite of energy efficiency standards established in December 2016 and ordered that the standards must be published within 28 days. A coalition of environmental advocates including 11 states filed challenged the DOE in June 2017 for unlawful withholding of publication of the final standards in the federal register – the final step to implement the rules – even after the 45-day public review window had ended. The 2016 rules are estimated to save consumers and businesses \$8.4 billion over a 30-year period and reduce 99 million metric tons of carbon dioxide emissions. 

EPA Moves to Implement Ozone Rule

On January 5, EPA issued a notice that it would make the remaining attainment designations by April 30, 2018, for compliance with the ozone standards that were set to take effect October 1, 2017. The agency also announced in December, 2017, that it sent letters to areas not covered by the attainment designations, seeking more information. The actions follow a lawsuit filed in December by a 13-state coalition for illegally delaying the designations. In August 2017, the EPA withdrew its decision to delay the Obama-era ozone regulations after environmental groups sued the agency for delaying the rule. 

Bottom Line

Pick One

The prospects of additional oil and gas activity on federal land comes as a boon for the industry that has suffered from low oil prices in recent years. However, helping one sector often hurts other industries. For example, the subsidies for coal and nuclear plants could have harmed the natural gas and renewable sectors.

To Be Continued

In addition to procedural and legal hurdles, market dynamics favoring natural gas, wind, and solar may counter the rollback to some extent. Progressive states, such as New York, California, and Massachusetts, are transitioning towards clean energy both individually and in cooperation. For now, the jury on the effect of the Trump administration's rollbacks on the energy industry is still out.

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