



## **GOP: Making Big Oil's Dreams Come True**

### **The Trump Administration at the Department of the Interior is Intent on Fulfilling the Oil & Gas Industry's Wishlist**

On November 1, 2017, the Department of the Interior (DOI) publicly released **Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy**, which was mandated by Executive Order 13783, "Promoting Energy Independence and Economic Growth," and Secretarial Order 3349, "American Energy Independence." The report is a laundry list of DOI policies enacted during the Obama Administration that "potentially burden" domestic energy development. Unsurprisingly, nearly all of the policies identified pertain to oil, gas, and coal development, with a few scattered mentions of hydropower. Solar, wind, and geothermal energy development are barely referenced in the report at all.

DOI's report was developed in secret, with no public hearings or input allowed, and no response to a [letter](#) from Ranking Member Grijalva and all five subcommittee ranking members requesting the agency reports mandated by the Secretarial Order.

**This document outlines some of the actions DOI intends to take or has taken to "unburden" energy development. The actions are organized by bureau.**

It should be noted that this document is not a comprehensive list of all energy-related actions taken by the Trump Administration; the [Center for American Progress](#) and [Center for Western Priorities](#) have both recently issued good summaries of all pro-industry actions.

# Bureau of Land Management (BLM)

## Rescind the Fracking Rule

DOI's report states, "rescinding the rule has the potential to reduce regulatory burdens by enabling oil and gas operations to occur under one set of regulations within each state or tribal lands, rather than two." However, all oil and gas operations on federal lands must comply with both federal and state regulations, so even without the fracking rule, companies must meet both sets of requirements, and have been for nearly a century.

*Complete*

A final rule repealing the fracking rule was published in the Federal Register on December 29, 2017. Although the report states, "Rescinding this rule may result in additional interest in oil and gas development on public lands," BLM admits that the number of frack jobs on federal lands is expected to remain the same whether the rule is rescinded or not. Industry will save an estimated \$10,000, or about 0.1 to 0.2 percent of the cost of each well, because of the repeal.

## Rescind the Methane Waste Rule

DOI's report recommends delaying the compliance dates for parts of the rule for a year, from January 2018 to January 2019. The report states that "the 2016 final rule poses a substantial burden on industry." There is no mention of the fiscal or public health benefits from cutting down on methane venting, flaring, and leakage.

*In progress*

Republicans attempted to fully repeal the rule through the Congressional Review Act, but the vote failed in the Senate on May 10, 2017. In response, BLM published a notice in the Federal Register to extend the 2018 compliance dates in the rule to 2019, but a district court found that notice to be in violation of the Administrative Procedures Act. BLM acted a second time, publishing a final rule on December 8, 2017, that extended the compliance dates to 2019. California, New Mexico, and a coalition of environmental groups have sued BLM over the extension. The case is currently pending.

## Revise Onshore Orders 3, 4, and 5

The Obama Administration published these technical regulations for oil and gas site security, oil measurement, and gas measurement in 2016. They address dozens of regulations from the Government Accountability Office and the Royalty Policy Committee that dated back nearly ten years. DOI's report states, "These 3 regulations impose new cost burdens on operators as a result of oil and gas facility infrastructure changes."

*In progress*

BLM reports they are assessing the rules, but have not taken any action to date.

## Revise Leasing Reform

The Obama Administration reformed its oil and gas leasing policies in 2010 to address shortcomings identified during the Bush Administration (e.g., offering leases next to National Parks and ignoring input from the National Park Service). DOI's report states that the leasing reform, "resulted in longer time frames in analyzing and responding to protests and appeals, as well as longer lead times for BLM to clear and make available parcels for oil and gas lease sales. It has also resulted in increased workload and staffing needs to conduct additional upfront environmental analysis."

*In progress*

Increasing the frequency of lease sales and the amount of acreage offered and reducing the time from parcel nomination to sale are some of BLM's top priorities. Secretarial Order 3354, signed July 6, 2017, directed BLM to make every effort to hold quarterly lease sales in each state and report on other options to "improve the Federal oil and gas leasing program...to enhance exploration and development of Federal onshore oil and gas resources[.]"

## End Master Leasing Plans

One of the leasing reforms enacted by the Obama Administration was to create Master Leasing Plans, which are designed to plan for oil and gas leasing and minimize conflicts with other resources over broad areas.

*Coming soon*

DOI's report states that BLM intends to end the development of Master Leasing Plans "in the first quarter of FY 2018," which has already passed.

## Revise Lease Reinstatements

The Obama Administration issued policy guidance increasing the amount of environmental review needed before a lease that was terminated due to nonpayment of rent could be reinstated. DOI's report points out that in some cases, new operating requirements were added to the leases when they were reinstated to reflect changing circumstances on the ground. The report claims that rescinding this policy "will provide greater certainty and reduced expense for energy development companies."

*Coming soon*

BLM expects to finalize overturning this policy by the second quarter of FY 2018.

## Revise Greater Sage-Grouse Oil & Gas Leasing Prioritization

This 2016 Obama Administration policy directed BLM state offices to prioritize lands that are not sage grouse habitat when processing oil and gas leasing nominations. DOI's report states that this policy "requires additional analysis and staff time to screen parcels and weigh potential impacts," and reduces the certainty to industry about what lands will be available for leasing.

*Complete*

On December 27, 2017, BLM repealed the 2016 policy and replaced it with weaker instructions to state offices on how to limit impacts to sage grouse habitat.

## **Revise Greater Sage-Grouse Conservation Plans**

In 2015, the Obama Administration updated land-use plans across the West with conservation plans to protect and restore sage-grouse habitat. These plans were developed in conjunction with states, environmentalists, sportsmen, and other stakeholders with the goal of keeping sage-grouse off the endangered species list. Western Republican Governors, such as Gov. Mead of Wyoming, have expressed strong support for the sage-grouse conservation plans, but the oil and gas industry oppose them and have urged Interior to revise them.

*In progress*

In October 2017, BLM published a notice of intent to revise the sage grouse plans, with the goal of amending land use plans in the upcoming years.

## **Weaken Land Use Planning and National Environmental Policy Act (NEPA)**

DOI's report provides few specifics, other than expressing an interest in reviewing planning regulations and policies and bringing down NEPA processing times and costs.

*In progress*

The Obama Administration overhauled the land-use planning regulations in 2016, but those were voided by the Congressional Review Act early in 2017. The Trump Administration has prioritized increasing the speed of leasing and permitting decisions, but the only formal action on NEPA so far is an August 31 memo from Deputy Secretary Bernhardt setting page and time limits on environmental impact statements.

## **Update or Rescind Coal-Related Policies**

DOI's report states that "BLM is reviewing its policies, with the intent to update or rescind them," but doesn't identify the coal policies specifically.

*In progress*

The Trump Administration has already ended the programmatic environmental impact study into the coal leasing program and the associated leasing moratorium that was begun under the Obama Administration. It has also repealed a coal royalty valuation rule—a wishlist item of the coal industry.

## **Review Land-Use Designations**

DOI's report states that BLM will evaluate the various land-use designations used in resource management plans, such as Areas of Critical Environmental Concern, and "incorporate efficiencies and update policies" in order to reduce burdens on energy development.

*Unknown*

No actions related to land-use designations are known at this time.

## **Review Leasing Stipulations and Conditions of Approval**

Leasing Stipulations are specific protections for various resources included on individual leases, such as timing restrictions on drilling to protect wildlife mating habitat. Conditions of Approval are placed on drilling permits in order to account for additional site-specific issues not included

in lease stipulations. DOI's report states that both requirements add development costs and increase the complexity of drilling operations, but does not propose making any changes.

*Unknown*

No actions related to Lease Stipulations and/or Conditions of Approval designations are known at this time.

### **Limit Lease Protests**

DOI's report expresses frustration at the greater number of lease parcel protests in recent years, and suggests, "a regulatory change may be necessary to limit redundant protests that hinder orderly development."

*In progress*

A witness at a January 18, 2017 hearing in the Energy and Mineral Resources Subcommittee mentioned that BLM has already started taking steps to reduce public input and make protesting leases more difficult.

## **Bureau of Ocean Energy Management (BOEM)**

### **Re-Examine the Air Quality Rule**

In April 2016, the Obama Administration published proposed new regulations covering air quality on the Outer Continental Shelf, which had not been updated since 1980. Industry opposes the proposed new regulations, and DOI's report states that BOEM is "re-examining" the issue.

*Delayed*

The Air Quality Rule is not listed on the Fall 2017 DOI Regulatory Agenda, indicating the rulemaking process has been halted for now.

### **Weaken Financial Assurances for Decommissioning**

In 2016, the Obama Administration issued new guidance to industry for determining whether companies had sufficient financial assurances available for decommissioning offshore infrastructure. The Obama Administration also began sending letters to companies that had no other liable partners asking them to provide additional assurances.

*In progress*

In February 2017, the Trump Administration rescinded the letters. In June 2017, it announced that it would halt implementation of the new financial assurance standards while it reviews the guidance.

### **Rescind the Arctic Rule**

The Obama Administration enacted additional safety measures for exploratory offshore drilling in the Arctic in July 2016.

*In progress*

DOI's report states it is "considering full rescission or revision of this rule." Release of a new proposed rule has a target date of October 2017 in the DOI Regulatory Agenda.

### **Develop New Offshore Leasing Program**

The Obama Administration finalized a 5-year offshore leasing program for 2017-2022 in early 2017, but President Trump's Executive Order 13795 led to DOI Secretarial Order 3350, which directed the development of a new 2019-2024 leasing program.

*Draft complete*

The 2019-2024 Draft Proposed Program for offshore oil and gas leasing was released January 4, 2018. The program included lease sales for the entire Outer Continental Shelf except Bristol Bay. On January 9, Secretary Zinke tweeted that he was removing Florida's offshore areas from consideration after meeting with Governor Scott. There are two more formal steps in the process: release of a proposed program (expected this summer or fall) and a proposed final program (expected early 2019).

### **Allow Seismic Permitting**

The primary battleground over seismic surveys is in the Atlantic Ocean. The Obama Administration completed a programmatic environmental impact statement for seismic surveys in the Atlantic. It then rejected a number of seismic permit applications after removing any potential Atlantic lease sales from the 2017-2024 offshore leasing program. The Trump Administration reversed that decision and is currently reviewing six permit applications for Atlantic seismic surveys.

*Ongoing*

DOI's report states, "The ongoing delay in reaching decisions on Federal authorization of seismic surveys is a burden that hinders domestic energy development," and indicates that BOEM and the National Marine Fisheries Service are working to streamline the review.

## **Bureau of Safety and Environmental Enforcement (BSEE)**

### **Revise the Well Control Rule**

DOI's report states that the Well Control Rule, issued by the Obama Administration in response to recommendations made after the *Deepwater Horizon* explosion and oil spill, is a potential burden to energy development and is currently being reviewed for reforms.

*Draft complete*

A leaked draft of the revised regulation was reported by the press on December 28, 2017. The new regulation would loosen a number of features of the existing regulation, including relaxing requirements for third-party certification and real-time monitoring.

### **Rescind the Arctic Rule**

See BOEM section above.

### **Weaken Offshore Decommissioning Rules**

See BOEM section above.

### **Extend Lease Continuation Period**

Under old regulations, companies could extend their offshore leases past the normal expiration date if they were conducting operations on the lease site. The leases would not expire until 180 days after operations were completed.

**Complete**

Under Congressional direction, the Trump Administration published a new regulation in 2017 extending that period even further to one year.

### **Eliminate Contractor Liability**

After the *Deepwater Horizon* oil spill, the Obama Administration began holding offshore contractors liable for violations on the outer continental shelf, instead of just the leaseholder (allowing them to charge the owner of the *Deepwater Horizon* with violations in addition to BP).

**Complete**

In October 2017, the 5th Circuit affirmed a district court ruling that DOI could not enforce violations by contractors, only leaseholders. In December, DOI withdrew their appeal in a similar case. No further action is expected.

### **Reform Civil Penalty Cases**

DOI's report states that BSEE has created a Civil Penalty Enforcement Specialist to improve "clarity and consistency" in civil penalty cases.

**Unknown**

No specific actions taken by the Civil Penalty Enforcement Specialist are known at this time.

## **Office of Natural Resources Revenue (ONRR)**

### **Re-Establish the Royalty Policy Committee**

This committee was resurrected by the Trump Administration to address issues surrounding royalty collection from resource production on federal and Indian lands. The makeup of the committee is largely represented by industry and strongly pro-drilling states, with zero

representation from environmental or public interest groups and only marginal representation by states with a Democratic governor.

*Complete*

The Committee held its first meeting October 4, 2017.

### **Repeal the Valuation Rule**

In 2016, the Obama Administration published long-overdue updates to its regulations for valuing oil, gas, and coal for royalty purposes. These updates would close coal loopholes and raise roughly \$78 million in additional oil and gas royalties each year. The Trump Administration attempted to unilaterally block the rule in February 2017, but a court struck that attempt down.

*Complete*

The Trump Administration proceeded with the full rulemaking process and formally repealed the rule August 7, 2017.

## **Other Agencies and Department-wide Actions**

The U.S. Fish and Wildlife Service is in the process of reviewing its 2016 “Management of Non-Federal Oil and Gas Rights” rule. On December 22, 2017, DOI announced that would not prosecute accidental deaths or injuries to migratory birds under the Migratory Bird Treaty Act, which impacts oil and gas operations significantly. Secretarial Order 3360, signed December 22, 2017, rescinded a number of Obama Administration policies on mitigation and climate change that purportedly burden energy development.