

Tracking Trump's First 100 Days: Key Energy Decisions That Could Drive Litigation

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Key Takeaways

1. Increased federal support for the fossil fuel industry will likely generate two waves of litigation: first, from state governmental agencies and special interest groups; second, from private parties renegotiating previously executed contracts.
2. Significant reductions in energy regulation will create a wealth of opportunities for oil and gas participants seeking more favorable regulatory interpretations. They can advocate for such interpretations by joining or submitting briefs in potential lawsuits.
3. As once-profitable "green" projects become unworkable under decreased federal support for green energy, parties involved in these projects may attempt to renegotiate or cancel contracts based on the doctrines of commercial impracticability or impossibility.

Introduction

Since taking office on January 20, President Donald Trump has used his executive authority to make an unprecedented number of major policy changes. This includes dramatic shifts in the legal and regulatory landscapes, signaling a new status quo for the nation's energy industry. As President Trump's second administration unfolds, participants across the industry—from oil and gas producers to renewable energy providers—should consider the opportunities and challenges to come, including those that may spark legal disputes.

What should energy industry counsel and executives watch for during the first 100 days of the administration? This article focuses on three key areas: (1) the government's increased support for the fossil fuel industry; (2) significant reductions in energy regulation; and (3) a decrease in federal support for green energy.

1. Increased Federal Support for the U.S. Fossil Fuel Industry

Background

President Trump has been a longtime, vocal supporter of the fossil fuel industry. During his first term, the United States became the largest oil producer in the world.¹ As the president stated on the campaign trail, he intends to achieve not only U.S. energy independence, but U.S. energy dominance. The declaration of a “national energy emergency” on his first day in office ended Biden-era restrictions on energy production, removed the electric vehicle (EV) mandate, ended incentives for renewable energy, and canceled President Biden’s natural gas export ban.² In addition to presenting significant growth opportunities for American energy companies, these changes may limit the ability of some renewable energy companies and EV manufacturers to improve their market shares.

Litigation Outlook

While the Trump administration’s removal of Biden-era restrictions on drilling will likely lead to increased exploration and production, it may also result in an increase in court disputes. The first wave of suits will likely be from state governmental agencies (i.e. state attorneys general) and special interest groups (i.e. “green” environmental organizations) challenging the constitutionality of provisions or objecting to the expansion of drilling on federal lands or the removal of various environmental protections.

If market conditions change dramatically, we expect that private parties may attempt to take advantage of changes in oil prices and/or the increased availability of domestic oil by renegotiating previously executed contracts. We recommend taking proactive steps to avoid litigation, such as evaluating the relevant contracts for potential problems and heading off litigation by renegotiating before a problem arises.

President Trump’s pro-industry measures are likely to lead to more activity among oil and gas participants, including new projects, purchases of assets or companies, and production. With this comes the possibility for disputes covering a wide range of claims, such as breach of contract claims, corporate disputes, toxic tort, or even international arbitrations.

Furthermore, oil and gas participants could also find themselves at the center of—or directly affected by—governmental or special interest litigation challenging President Trump’s environmental and pro-industry changes. We recommend monitoring the status of such cases that affect the industry at large, even if you are not a direct party.

1 <https://www.eia.gov/todayinenergy/detail.php?id=40973>.

2 <https://www.whitehouse.gov/presidential-actions/2025/01/declaring-a-national-energy-emergency/>

2. Reductions in Energy and Environmental Regulation

Background

President Trump has promised to reduce the volume of federal regulations governing the energy industry. However, implementing this promise will likely be more complicated than simply issuing a series of executive orders. Federal law requires government agencies to follow the notice-and-comment requirements of the Administrative Procedures Act (APA) in enacting and changing federal regulations, even when agencies are implementing presidential directives.³

Additionally, two of the main targets of Trump's criticism, the IIJA and the Inflation Reduction Act (IRA), must be repealed by Congress rather than via executive order. While Republicans hold majorities in both houses of Congress, the GOP's narrow majorities will require close cooperation to overturn these laws. It is therefore difficult to predict whether the Trump administration will be successful in completely overturning these two laws.

Nonetheless, we expect President Trump to reduce energy and environmental regulations by issuing executive orders that change agency interpretations and by implementing measures that generally favor the energy industry.⁴ One such measure is the establishment of the National Energy Dominance Council, which will have the power to convene different executive branch leaders for regular meetings that support his goals across the energy industry.⁵

Litigation Outlook

Much of the fight over these changes will take place in the courts. While some state attorneys general have vowed to sue to prevent President Trump's energy policy changes from taking effect, recent decisions by the Supreme Court of the United States have viewed agency regulations with extreme skepticism, suggesting an uphill battle for those seeking to preserve the Biden-era landscape.

The most significant of these decisions is *Loper Bright Enterprises v. Raimundo*,⁶ which overturned the controversial policy known as "Chevron Deference" in 2024. Named after the 1984 Supreme Court case *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*,⁷ "Chevron Deference" refers to the federal courts' past practice of favoring (i.e.

³ See generally <https://crsreports.congress.gov/product/pdf/LSB/LSB10172>.

⁴ <https://www.reuters.com/business/energy/trumps-likely-first-moves-us-energy-policy-2025-01-13/>.

⁵ <https://truthsocial.com/@realDonaldTrump/posts/113488754953884936>.

⁶ 603 U.S. 369 (2024).

⁷ *Chevron U.S.A., Inc. v. NRDC*, 467 U.S. 837 (1984).

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deferring to) a government agency's interpretation of a law or statute. In the absence of specific guidance from Congress on how a law should be construed, the courts would approve the agency's interpretation of that law so long as it "was based on a permissible construction of the statute...."⁸

In *Loper Bright Enterprises*, the Supreme Court overruled the principle of Chevron Deference, holding that (1) the APA requires courts to exercise their own independent judgment in deciding whether an agency has acted within its statutory authority; and (2) courts may not defer to an agency interpretation of the law simply because a statute is ambiguous.⁹ The court's opinion opens the door for parties—including President Trump's Justice Department—to challenge federal agencies' reading of government regulations that previously would have been left undisturbed.

Other notable Supreme Court decisions include *Corner Post Inc. v. Board of Governors of the Federal Reserve System*,¹⁰ which removed the six-year statute of limitations for asserting a challenge to an agency interpretation or action, and *West Virginia v. EPA*,¹¹ which limited the EPA's options for regulating greenhouse gas emissions and established the "major questions doctrine." That doctrine holds that, when an administrative agency seeks to address a matter of significant economic or political importance, it must have clear authorization from Congress to do so; essentially, courts will not allow agencies to make major decisions without explicit congressional approval.

These rulings by the high court offer further proof of a new skepticism regarding agency interpretations of federal regulations—and, in turn, a new readiness to overturn or change constructions that are not fully authorized by Congress or the Executive branch. Simply put, environmental and energy-related regulations that had once been treated as sacrosanct may be no longer.

Accordingly, the current legal climate appears rich with opportunity for those seeking to obtain more favorable interpretations of regulations. Among other things, we recommend that oil and gas industry players advocate for such interpretations by joining or submitting briefs in potential lawsuits challenging President Trump's changes to Biden-era energy policies.

⁸ Id. at 843.

⁹ *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 412 (2024).

¹⁰ 603 U.S. 799 (2024).

¹¹ 604 U. S. 697 (2024).

3. Reduced Support for Green Energy

Background

President Trump has been a longtime critic of green energy. During his 2024 campaign, he made negative comments about alternative energy projects and what he referred to as the “Green New Scam.”¹² The president recently articulated plans to weaken the IRA and reallocate the unspent funds to infrastructure development projects. He may also attempt to “claw back” tens of billions of dollars in competitive grants that the Biden Administration awarded in late 2024 and early 2025 for climate mitigation projects. In the meantime, he will likely use executive action and/or litigation to amend, suspend, or delay implementing regulations and agency interpretations linked to the IRA.

Additionally, President Trump has taken steps averse to the solar, wind, and EV industries. Players in the solar industry should monitor the president’s plan to apply tariffs on imports, including solar components and critical minerals. Given the United States’ dependence on countries such as China, as well as the tariffs he has already placed on Chinese imports, the cost of solar components could skyrocket, making the industry less competitive. Approvals for wind projects in federal lands and waters have also been paused.¹³

Finally, despite his connection with Tesla’s Elon Musk, President Trump has come out against the Biden administration’s EV subsidies. Among other things, the president is expected to attempt to unwind prior federal investment in EV infrastructure and repeal consumer EV tax credits. He also has announced plans to eliminate a number of environmental regulations relating to greenhouse gas emissions standards for vehicles, which he believes will help the U.S. auto industry and its employees. Administration officials have already challenged the EPA’s Phase 3 GHG rule, seeking to eliminate that regulation’s de facto imposition of zero-emission truck requirements.

The heads of the National Energy Dominance Council, Secretary of Energy Wright and Energy Czar Burgum, have voiced support for an “all of the above” energy policy that includes development of renewable sources.¹⁴ However, they also strongly support the use of fossil fuels. Wright, in particular, has expressed doubt regarding the environmental benefits and reliability of solar power.¹⁵ Still, some familiar with the industry suggest that

¹² <https://www.politico.com/news/2024/09/05/trump-inflation-reduction-act-00177493>.

¹³ <https://www.npr.org/2025/02/01/nx-s1-5273496/trump-biden-climate-change-energy-fossil-fuels-paris-agreement>

¹⁴ <https://www.wbalvtv.com/article/chris-wright-energy-secretary-confirmation/63435259>.

¹⁵ Id.

many of the changes will be rhetorical rather than literal. As highlighted by Congressman Wright's "all of the above" approach, many believe that Trump's changes will be less harmful to green energy sources, and more focused on re-branding those industries as relevant to "energy security" or "energy dominance" rather than "clean energy."¹⁶ According to this view, President Trump's approach will treat clean energy as a supplement—rather than an alternative—to oil and gas.

Litigation Outlook

The Trump administration's decision to remove support for alternative energy will likely result in increased litigation, no matter the rhetorical scope. Many renewable projects created during the Biden administration were done so under the assumption that the Biden-era subsidies would continue. These subsidies often formed a central part of the investment. But as incentives and subsidies are canceled, once-profitable "green" projects could become unworkable. As a result, we expect to see a host of commercial disputes between investors, partners in renewables contracts (including those providing EPC or other services for the projects), and suppliers. In particular, renewables providers may try to renegotiate or cancel contracts based on the doctrines of commercial impracticability or impossibility. In other words, providers may argue that unexpected changes in market conditions and the regulatory landscape—which went into effect after the contract was executed—justify changing the contract terms or canceling the agreements altogether.

The Road Ahead

As President Trump navigates the first 100 days of his second administration, players in the energy industry should expect change at a breakneck pace—and outcomes that are impossible to forecast. Despite the potential boost to some corners of the industry, the president's actions have already invited numerous legal challenges, as well as a mixed bag of political and economic responses worldwide.

Oil and gas participants have reason to be optimistic about increased federal support, a substantial loosening of regulations, and a legal climate that favors executive and legislative policy guidance over agency interpretation. While many of these measures will be delayed by litigation, those that survive will stimulate the oil and gas industry, providing an opportunity to increase production and improve profits while meeting domestic and global energy needs.

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On the other hand, green energy participants should be concerned about the possible effects of reduced governmental support, increased federal regulation, and the potential for a trade war with international suppliers (i.e. China) of key raw materials. Providers may wish to join or submit briefs in some of the lawsuits that have been filed challenging the changes to Biden-administration energy policies or increase their efforts to lobby Congress to temper the effects of new regulations.

Above all, uncertainty is on the horizon. For emerging and traditional energy industry players alike, the ability to adapt to fast-moving policy changes will be critical to staying competitive throughout the president's second term.



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