

New Executive Orders Relating to the Energy Industry

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During his first week in office, President Joe Biden executed two executive orders that impact the energy industry. Below is a summary of the key provisions in those orders and the implications on federal policy relating to the energy industry under the Biden administration.

Executive Order 13990

Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis

ANWR Action

EO 13990 directs the Secretary of the Interior to place a temporary moratorium on all activities relating to the implementation of the Coastal Plain Oil and Gas Leasing Program in the Arctic National Wildlife Refuge ("ANWR") due to the alleged legal deficiencies underlying the program, including the inadequacy of the environmental review required by the National Environmental Policy Act. EO 13990 directs the Secretary to review the program and conduct a new analysis of the environmental impacts of the program. EO 13990 also reinstated former President Obama's [executive order](#) that withdrew certain offshore areas in Arctic waters and the Bering Sea from oil and gas drilling and established the Northern Bering Sea Climate Resilience Area. These areas are no longer available for consideration for future oil or gas leasing, for purposes of exploration, development, or production.

The Bureau of Land Management [conducted the first](#) of what was supposed to be two lease sales directed under the [2017 Tax Cuts and Jobs Act](#) on January 6, 2021, that offered areas of high-potential hydrocarbon lands for lease. The reinstatement of former President Obama's executive order in EO 13990 temporarily halts future lease sales in the ANWR authorized under the 2017 Tax Cuts and Jobs Act and other future consideration for oil and gas leasing in the ANWR.

Keystone XL Pipeline Permit Revocation

EO 13990 confirms the Biden administration's policy is to address climate change. In furtherance of this policy, EO 13990 revokes the [Presidential permit](#) issued to TransCanada Keystone Pipeline, L.P. for the construction and operation of the Keystone XL Pipeline. EO 13990 reiterates the conclusion reached by the Obama administration in 2015 that "[t]he Keystone XL pipeline would not serve the U.S. national interest." EO 13990's revocation of former-President Trump's Presidential permit aims to put the United States "in a position to exercise vigorous climate leadership" going forward. The full implications of the permit revocation are unknown at this time. The terms of the now-revoked Presidential permit require that, upon revocation, the pipeline must be removed at the permittee's own expense. A TC Energy ([formerly TransCanada](#)) [news release](#) states that the company is currently reviewing the implications of EO 13990 and assessing the company's options.

Regulatory Review

EO 13990 directs the heads of all agencies to review immediately all existing regulations, orders, guidance documents, policies, and other similar agency actions promulgated, issued, or adopted during the Trump administration that conflict with the Biden administration's public health, climate, and environmental policy objectives and to take action as appropriate and consistent with applicable law. EO 13990 further directs the heads of the relevant agencies to consider new rules that would suspend, revise, or rescind specific regulations enacted or proposed during the Trump administration regarding vehicle fuel economy and emissions standards, methane emissions standards, and appliance and building efficiency standards to ensure that such standards cut pollution. EO 13990 repeals many energy-related executive orders from the Trump administration that sought to advance natural resource development on federal lands.

Executive Order 14008

Tackling the Climate Crisis at Home and Abroad

EO 14008 establishes climate considerations as an essential element of U.S. foreign policy and national security.

Federal Mineral Leasing

EO 14008 directs the Secretary of the Interior to pause on granting new oil and natural gas leases on public lands or offshore waters to the extent possible under law, launch a rigorous review of all existing leasing and permitting practices

related to fossil fuel development on federal lands, and identify steps that can be taken to double renewable energy production from offshore wind by 2030. EO 14008 further directs the Secretary of the Interior to consider whether to adjust royalties associated with natural resource production on federal lands. EO 14008 does not restrict energy development activities on Tribal lands.

Fossil Fuel Subsidies

EO 14008 directs federal agencies to eliminate fossil fuel subsidies as consistent with applicable law by 2022. EO 14008 does not identify or define what constitutes a subsidy under the order.

Federal Land Conservation

EO 14008 commits to the goal of conserving at least 30 percent of federal lands and waters by 2030. This initiative will involve a review process to identify which lands should be considered eligible for conservation.

Energy and Environmental Councils

EO 14008 also created a number of energy and environmental policy councils to advise President Biden regarding the future actions needed to pursue his administration's energy and environmental policy goals.

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