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The future of energy and environmental policy under President Donald J. Trump

During his campaign, then-candidate Donald Trump promised to "unleash an energy revolution" with sweeping reforms for the energy sector. President Trump favors a deregulatory approach, and has stated that his administration's policy goals include repealing climate change regulations passed during the Obama administration, and defunding — or at least reducing the influence of — the EPA. In addition to removing domestic roadblocks, President Trump is also in favor of U.S. withdrawal from international agreements and restrictions on U.S. energy output, such as the Paris Climate Accord.

While President Trump has indicated that he is not a "big believer" in climate change, he generally appears to favor an "all of the above" approach to energy production that includes certain renewables as well as traditional fossil fuels, particularly natural gas and other native resources that would strengthen American energy independence and security. Ultimately, a Trump administration is likely to follow the lead of the industry stakeholders that have championed the move toward reliable, low-cost options in recent years.

Although his administration's legislative priorities will benefit from a majority-Republican Congress, President Trump's policy goals almost certainly will face headwinds due to the sheer difficulty of passing energy and environmental legislation and the ability of Senate Democrats to filibuster, built-in bureaucratic backstops that hinder swift change within EPA and the Department of Energy, and the substantial role of states in energy and environmental policy. That said, in the coming weeks and months, there will be several key areas to watch.

Making coal great again — or not

President Trump's victory in "Rust Belt" states other than Illinois is at least partially attributable to his promise to rejuvenate the struggling coal industry, which has shed nearly 200,000 jobs since September of 2014. This is one area in which President Trump may be able to temporarily stanch the bleeding, but in the long run, it is unlikely that the industry will be restored to its former prominence or profitability. This reality is largely due to market-based factors related to long-term planning by utilities, which have jettisoned coal in favor of cheaper — and, thanks to fracking, easily accessible — natural gas.

President Trump's administration could have some success in aiding coal on the regulatory front by, among other things, ending the federal government's three-year moratorium on coal leasing on federal land, instructing the Office of Surface Mining Reclamation and Enforcement (OSMRE) to end its self-bonding review (thus relieving mining companies of an additional financial burden), and making strategic appointments at EPA who would work to limit that agency's "sue and settle" practice, thus transferring environmental policy dominance back to the states. Repealing existing coal-impacting regulations, however, likely would be a long and drawn-out process, which would almost certainly be bogged down in court by environmental groups accustomed to long-running litigation.

Ultimately, the winds of change in the energy production sector are blowing in the direction of cheaper natural gas and renewables. Short of a direct mandate to consume coal, or significant tax breaks benefiting the coal industry above its competitors (both of which would be staunchly opposed by oil and gas companies), it is unlikely that President Trump will succeed in fully reversing a decline that, in truth, began more than 30 years ago.

Build the . . . pipelines!

President Trump has indicated his support for building domestic energy infrastructure in general, and pipelines and liquified natural gas (LNG) export terminals in particular. Energy industry advocates have also expressed hope that the Trump administration will seek to modern-

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ize the nation's electric grid to improve reliability.

With regard to pipelines, President Trump has promised to ask Canadian oil pipeline company Transcanada to renew its application for the Keystone XL pipeline, an infrastructure project rejected by the Obama administration. Additionally, although the controversial Dakota Access/Bakken pipeline was recently denied an easement by the U.S. Army Corps of Engineers (which also requested an environmental impact analysis), the Trump administration could reverse or soft-pedal the Corps' decision after he takes office, especially given the fact that construction on the Dakota Access pipeline is more than 92 percent complete.

Opportunities for oil and gas to expand

The oil and gas industries will be clear winners under a Trump administration. The President has announced his intention to lift regulation affecting these sectors, which would likely include rolling back Corporate Average Fuel Economy (CAFE) standards (which are up for a scheduled review in 2018) and limits on methane emissions for oil and gas production. President Trump has clearly expressed his desire to help industry stakeholders tap American energy resources (both onshore and offshore) and increase production, and has publicly touted a study that examines the positive economic impact of allowing drilling on all federal lands that are currently off-limits, including Alaska and the Arctic Ocean, and parts of the Atlantic Coast. Finally, President Trump's pick for Energy Secretary, former Texas Governor Rick Perry, has multiple ties to oil and gas companies due to his experience leading one of the nation's top energy-producing states.

Regardless of President Trump's efforts to expand production, increased profits for the oil and gas sector are far from guaranteed. Oil is a global commodity subject to price fluctuations resulting from matters outside the President's control. Given the fact that domestic and foreign overproduction has driven oil prices down in recent years, President Trump's plan to increase production may exacerbate this problem.

Scrapping the clean power plan

The Clean Power Plan — an EPA rule promulgated during the Obama administration aimed at reducing emissions of carbon dioxide — is currently embroiled in litigation before the D.C. Circuit Court, and has been placed on hold pending a decision. Notably, Oklahoma Attorney General Scott Pruitt, President Trump's pick to head EPA, is a strong critic of the rule.

If the plan is upheld by the court, the Trump administration has several options, all of which could eviscerate its impact. First, it could request that the plan remain on hold, so that the new EPA can undertake a formal notice-and-comment rulemaking to review and significantly scale back the rule. President Trump also could issue an executive order indicating that Trump's EPA will not enforce the rule in its current form, as was requested by the 24 states that oppose the Clean Power Plan. The administration also could appeal to the Republican-controlled Congress to block the plan legislatively.

On the other hand, if the plan is struck down by the appeals court, the administration likely simply would not appeal that decision. Even if others sought to appeal, the Supreme Court, which by then may include a new justice appointed by President Trump, would have no obligation to hear the case. In any event, it's clear that the Clean Power Plan may be one of the first regulations to hit the chopping block.

We may not always have Paris

President Trump has been a vociferous critic of the United States' participation in the 2015 Paris climate agreement, in which participants pledged to reduce greenhouse gas emissions over time and meet regularly at the United Nations to set new and lower emissions targets. The U.S. has been seen as a leader in climate policy during the Obama administration, and other countries may well follow President Trump's lead if the world's largest superpower decides to withdraw from the Paris Accord. Although it is technically simple for President Trump to withdraw the U.S. from the agreement, he has already faced criticism from other countries, most significantly China, regarding his intentions, and may use this as a bargaining chip in international negotiations.

No strong winds of change for renewables

President Trump has indicated his support for certain forms of renewable energy, including solar power (but not wind power, which he personally opposes for aesthetic and environmental reasons). Although some in the industry have predicted the demise of the investment tax credit (ITC) for solar and the production tax credit (PTC) for wind power, the Republican-controlled Congress extended the PTC and ITC to 2021, and much of the push for renewables, and many of the financial incentives, comes from individual states rather than the federal government. Red states like Iowa, Kansas, and Texas are replete with wind energy jobs and money. As a result, support for renewables is unlikely to decline in the near future.

Going nuclear

President Trump has actively supported nuclear power, and the President will have the opportunity to fill two vacancies in the Nuclear Regulatory Commission, which may afford his administration with opportunity to affect new reviews of nuclear power technology. However, as witnessed by the subsidies at the root of the Future Energy Jobs Bill enacted in Illinois late last year, nuclear energy producers may need financial incentives if they are to remain competitive with gas in deregulated markets.

Conclusion

The Trump administration will almost certainly seek to downsize the dense thicket of regulations that govern the energy and environmental sphere, but the level of success it will have in this endeavor will depend on market support and political momentum. Given the contentiousness surrounding President Trump's election, he likely lacks a mandate for wholesale repeal of Obama-era administrative policies and legislation — but in the end, a Trump administration will almost certainly shore up our aging energy infrastructure and ease the way for domestic energy producers — oil and gas, coal, nuclear, and renewable — to increase our country's energy production and improve America's energy independence. ■