



President-elect Trump and the 115th Congress: Energy Policy Preview January 2017

Trump Administration

The ascendance of President-elect Donald Trump ushers in a new era of federal energy policy. Though Trump remains an enigma whose policy positions are often subject to change, he has been steadfast in his commitment to reduce federal regulatory burdens, particularly those associated with fossil fuels. On the campaign trail, Trump promised to end the “War on Coal,” withdraw from the Paris Agreement on climate, and open more federal land to oil and gas development. However, Trump also advocated a genuine “all of the above” energy strategy and has signaled support for maintaining tax credits for renewable energy sources, such as wind and solar.

In a nod to the oil and gas industry, Trump tapped American Energy Alliance president Thomas Pyle to lead his transition team efforts on energy policy. Pyle is a long time fossil fuel industry lobbyist. In a recent memo, Pyle provided an outline of what to expect on energy policy from the Trump administration. In addition to scrapping the Clean Power Plan and other Obama era rules, the memo proposed relaxing federal fuel economy standards, expediting permitting for pipelines and LNG export terminals, amending the Renewable Fuel Standard (RFS), and ending the use of the “social cost of carbon” in federal rulemakings. Though many of these initiatives will require significant time and political capital to become reality, we expect them to be at the top of the Trump energy agenda. All together, these priorities, if enacted, would mark a significant shift in U.S. federal energy policy.

For President Obama, who made addressing climate change a centerpiece of his second term, the election of Donald Trump is a harsh rebuke to his policy agenda. Many of his signature initiatives on climate now hang in the balance. Trump campaigned on the idea that excessive regulation is hurting the U.S. economy and hindering the country’s global competitiveness. Trump’s initial plans to alleviate that burden will almost certainly include efforts to roll back a number of the most prominent and controversial rules put forth in recent years by the Environmental Protection Agency (EPA), including the Clean Power Plan and the “Waters of the US” rule. Though Trump cannot unilaterally cancel regulations and would have to undergo a formal and lengthy rulemaking process for any significant changes, his administration will have options in how they enforce those rules and in how they address any legal challenges.

Trump is still in the process of selecting his cabinet and building the team that will help achieve his policy goals. His early selections indicate the Trump administration will be aggressive in those efforts.

Environmental Protection Agency

Trump has tapped Oklahoma Attorney General and climate change skeptic Scott Pruitt to run the EPA, an agency to which he has been a frequent antagonist and litigant. Pruitt has been a vocal critic of what he considers an activist EPA, and, if confirmed, will bring a far more restrained approach to the agency. If the Clean Power Plan survives current legal challenges, Pruitt may elect to roll back the regulations through the rulemaking process. However, Pruitt will be bound by his legal obligation to implement and enforce the law and any significant actions that controvert that obligation may find legal challenges of their own.

Department of the Interior

At Interior, which is charged with managing federal lands and natural resources, Trump nominated former Navy SEAL Rep. Ryan Zinke (R-MT) for Secretary. As a Montanan and avid outdoorsman, Zinke is a strong advocate for conservation and public lands, though he also supports increasing oil and gas development on federal lands. Zinke diverged from many of his House Republican colleagues who sought to transfer federal land ownership to the states, most prominently in the West. Zinke has stated previously that we need “prudent” solutions to address climate change, which would include an “all of the above” strategy.

Department of Energy

Trump nominated former Texas Governor Rick Perry to head the Department of Energy, an agency Perry famously promised to abolish during his own presidential run in 2012. While the bulk of the agency’s operations are focused on nuclear security and non-proliferation, it spends billions on important research and development programs, as well as grants and loans for energy innovation. Perry was the longest serving governor in the history of Texas, a state with significant energy resources. While it’s no secret Texas is flush with oil and gas, wind has emerged as a significant part of the state’s energy portfolio. The success of renewable energy in his home state will likely be an important influence on Perry’s perspective as Energy Secretary.

115th Congress

Trump and his policy agenda will have the benefit of a fully Republican-controlled Congress. This marks the first time one party has held both chambers of Congress and the White House since 2010, when Democrats used their majorities to pass the Affordable Care Act, stricter banking regulations, and other Democratic priorities. However, Trump will not have a blank check. With only a 52-48 majority in the Senate, short of the 60 votes necessary to pass most legislation, Trump and Congressional Republicans will still need to bring Democrats to the table to make any significant accomplishments.

Senate

In the Upper Chamber, the Energy and Natural Resources Committee will benefit from the return of its leadership on both sides of the aisle. Sen. Lisa Murkowski (R-AK) will retain her role as Chairwoman, while Sen. Maria Cantwell (D-WA) returns as Ranking Member. Murkowski and Cantwell were the chief architects of the Senate's comprehensive energy bill, the Energy Policy Modernization Act (S.2012). That bill would have, among other things, expedited LNG export terminal approvals, increased energy efficiency standards, and addressed concerns regarding the security and resiliency of the electric grid. Though the bill successfully passed the Senate, it proved too divergent from its counterpart in the House, and a conference committee was unable to reach a compromise. Both Senators expressed deep disappointment that their efforts to shepherd the bill, which included two years of listening sessions, hearings, markups, and compromises, ultimately fell short. With both returning to their leadership roles, we expect a renewed effort in the 115th Congress.

The Environment and Public Works (EPW) Committee will not enjoy the same continuity. With Sen. James Inhofe (R-OK) reaching the customary term limit as committee chairman, Sen. John Barrasso (R-WY) will assume the gavel. For the Democrats, Sen. Tom Carper (D-DE) will become Ranking Member, following the retirement of Sen. Barbara Boxer (D-CA). EPW has broad jurisdiction over environmental policy, including air and water quality.

House

In the House, the Energy and Commerce Committee will also see some turnover at the top. Rep. Greg Walden (R-OR) will become Chairman of the powerful and wide-ranging committee, replacing Rep. Fred Upton (R-MI), who is stepping down after completing his full six-year term. Walden was previously Chair of the Subcommittee on Communications and Technology and is expected to move telecom issues, as well as repealing and replacing the Affordable Care Act, toward the top of the full committee's agenda. Walden has been a vocal opponent of the Clean Power Plan and generally falls in line with traditional Republican energy policies. Ranking Member Frank Pallone (D-NJ) will retain his role as top Democrat on the committee.

Rep. Rob Bishop (R-UT) will return as Chair of the Natural Resources Committee. Bishop's Democratic counterpart, Rep. Raul Grijalva (D-AZ), will also be returning as Ranking Member. Bishop will likely continue pushing for legislation that would improve siting and access for natural gas pipelines and transmission lines on federal lands. Two bills, the National Energy Security Corridors Act (HR 2295) and the Electricity Reliability and Forest Protection Act (HR 2358), successfully passed the House in the 114th Congress via a comprehensive energy package, but fell short of becoming law. Bishop is also expected to pursue a package of mining legislation, addressing issues such as abandoned mines and mining claim fees.

The House Freedom Caucus (HFC), an archconservative coalition of House Republicans whose influence continues to expand, recently released a list of federal regulations and executive orders they would like to see rescinded under the Trump Administration. The list contains a number of rules and regulations that impact the energy and electricity industries, from pollution standards to energy efficiency requirements. Not surprisingly, it also calls for the elimination of the RFS. Moreover, the HFC also hopes to move legislation that would change the regulatory review process to require a stricter analysis of the costs of a given regulation.

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