



Regulatory Relief is on the Way—Secretary Zinke Orders Review of Actions That Burden the Energy Industry

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In an action directly aimed at reducing the regulatory burden on the energy industry, Secretary of the U.S. Department of the Interior Ryan Zinke issued Secretarial Order No. 3349, titled “American Energy Independence.” Issued on March 29, 2017, the Secretarial Order promotes domestic energy development and use by taking important first steps toward alleviating the regulatory burden associated with developing federal minerals.

The Secretarial Order, available [here](#), implements President Donald Trump’s March 28, 2017 Executive Order, titled “Promoting Energy Independence and Economic Growth,” (March 28 Order) which rescinded several earlier presidential memoranda aimed at climate change and the energy industry. The March 28 Order, available [here](#), outlines President Trump’s policy to avoid regulations that unnecessarily encumber energy production and to direct agencies to review actions that potentially burden the development or use of domestically produced energy resources.

Significantly, Order No. 3349 revoked the Department of the Interior’s Obama-Era Secretarial Order on mitigation, Order No. 3330, which called for a comprehensive mitigation strategy involving a landscape-scale approach to address the environmental impacts of federal actions such as oil and gas development; it also called for early integration of avoidance, minimization and mitigation considerations in project planning. As a result of Order No. 3330 and its related policies, oil and gas operators found themselves subject to increased requirements at the permitting stage, especially with respect to air quality and wildlife.

Additionally, Order No. 3349 directs bureaus within the Department of the Interior, to review agency actions that potentially burden the development or use of domestically produced energy resources with special attention to oil, natural gas, coal, and nuclear resources. Specifically, Order No. 3349 requires agencies within the Department of the Interior to review (1) mitigation policies; (2) climate change policies; and, (3) three final rules impacting energy development (*i.e.*, the Bureau of Land Management’s “Waste Prevention, Production Subject to Royalties, and Resource Conservation” rule; the National Park Service’s “General Provisions and Non-Federal Oil and Gas Rights” rule; and the Fish and Wildlife Service’s “Management of Non-Federal Oil and Gas Rights” rule.)

Under Order No. 3349, the Department of the Interior's Deputy Secretary is to provide Secretary Zinke with a plan to fulfill the objectives of the President's March 28 Order within 35 days. With respect to the non-rule actions, each bureau and office head within the Department of the Interior has 90 days to identify policies either in place or in development that hinder energy development or use pursuant to the March 28 Order, and must propose revised or substitute actions. Final rules must be reviewed for consistency with the March 28 Order within 21 days.

Finally, Order No. 3349 reiterates that the Bureau of Land Management shall expeditiously rescind the final rule regarding hydraulic fracturing on federal and Indian Lands.

Both President Trump's and Secretary Zinke's Orders are promising developments for American oil and gas companies who develop federal minerals or operate on federal land. The Orders pave the way for a more streamlined and less expensive federal permitting process. In the coming months, following completion of the mandated reviews discussed above, industry and the bureaus should gain clarity as to what and how regulatory relief will be implemented.

Please contact [Bret Sumner](#), [Theresa Sauer](#) or [Nicole Blevins](#) for more information on Secretarial Order 3349 and its potential impacts.

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