

Secretary of the Interior Burgum Fuels A Surge of Day One Energy Orders

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Newly confirmed Interior Secretary Doug Burgum wasted little time implementing many of President Trump's initial energy executive orders (EOs), unleashing a round of Secretary's Orders (SOs) this past Monday that push fossil fuels and mining to the fore. Although renewable energy is not excluded from the SOs, they signal the potential for additional adverse actions beyond those announced in Trump's [wind energy presidential memorandum](#), which we covered in a [previous client alert](#).

- **National Energy Emergency (SO 3417).** Implementing provisions of [EO 14156](#), this SO directs all bureaus and offices within the Department of the Interior (DOI) to identify emergency authorities (and other legal authorities) within 15 days that will (a) "facilitate the identification, permitting, leasing, development, production, transportation, refining, distribution, exporting, and generation of domestic energy resources and critical minerals including, but not limited to, on Federal lands and the Outer Continental Shelf"; and (b) "expedite the completion of all authorized and appropriate infrastructure, energy, environmental, and natural resources projects within their jurisdiction to perform or to advance, including use of all authorities to facilitate the supplying, refining, transporting, and exporting of energy including, but not limited to, in and through the West Coast of the United States, the Northeast of the United States, and Alaska." While SO 3417 is presumed to focus on oil and gas, it is worded in a manner that is not exclusive of renewable energy sources.
- **Unleashing American Energy (SO 3418).** This SO implements [EO 14154](#) and directs DOI's assistant secretaries to, among other things, present an action plan to "suspend, revise, or rescind" a list of Biden-era regulations, secretarial orders, Solicitor's Office M-Opinions, and other regulatory documents. These include, most notably, the 2024-2029 Five-Year Plan for offshore oil and gas leasing, as well as M-Opinions interpreting offshore renewable energy provisions of the Outer Continental Shelf Lands Act (OCSLA) and confirming the Migratory Bird Treaty Act's (MBTA) inclusion of incidental take. These are documents that the Biden administration issued to reverse documents from the first Trump administration, and we anticipate that they could revert back to something resembling the original versions. For example, the scope of the MBTA has been debated between the past several administrations, and this move signals that the Trump administration may only apply the MBTA take prohibition to intentional takes.

The SO also directed that the action plan include steps to increase oil and gas leasing on public lands (including the reinstatement of canceled leases), revise critical habitat designations, assess DOI's implementation of the National Historic Preservation Act, reduce burdens on mining, identify the locations of deposits of critical minerals, and ensure that "rules, guidance, and policies relating to the development of energy resources on Federal land do not bias government or private-sector decision making in favor of renewable energy projects as

compared to oil, gas, or other mineral resource projects.”

Finally, the SO directs the Assistant Secretary for Policy, Management and Budget to reassess “processes, policies, and programs for issuing grants, loans, contracts, or any other financial disbursements of all appropriated funds” from the Inflation Reduction Act (IRA) and the Infrastructure Investment and Jobs Act (IIJA), which included (among other things) several years of enhanced appropriations for permitting environmental reviews.

- **Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis** (SO 3419). Implementing the [EO of the same name](#), this SO directs DOI to identify programs and regulations that “may result in higher costs for the American people.” This review is intended to focus on “coercive ‘climate’ policies that increase the cost of food or energy,” but at the same time “consider how to create employment opportunities for American workers, including drawing discouraged workers into the labor force.”
- **Announcing Trump’s Revocation of Former Outer Continental Shelf Withdrawals** (SO 3420). Implementing a portion of [EO 14148](#), this SO purports to rescind President Biden’s withdrawal of large swaths of the Outer Continental Shelf from further offshore oil and gas leasing in the closing weeks of his administration pursuant to OCSLA Section 12(a). It remains to be seen whether this order is enforceable, given that the only court to interpret Section 12(a) found that such withdrawals could only be reversed through an act of Congress,^[1] and we anticipate that this order will be challenged by environmental groups.
- **Achieving Prosperity Through Deregulation** (SO 3421). This SO implements Trump’s [Deregulation EO](#) and requires DOI to identify “at least 10 existing Department regulations to be eliminated” for “each new regulation that they propose to promulgate.” This represents a significant escalation of the first Trump administration’s policy of requiring the elimination of two regulations for every new one promulgated.
- **Unleashing Alaska’s Extraordinary Resource Potential** (SO 3422). Implementing provisions of [EO 14153](#), this SO directs a more aggressive approach to oil and gas leasing in the Arctic National Wildlife Refuge (ANWR). The ANWR lease sales mandated by Congress in 2017 resulted in few to no bids and the area remains a focus of environmental group opposition; it remains to be seen whether commercial interest increases as a result of the second Trump administration’s more fossil fuel-friendly policies.

[1] *League of Conservation Voters v. Trump*, 363 F. Supp. 3d 1013 (D. Alaska 2019).

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