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# Twin Killings: Executive Orders Put Existing Energy Regulations in the Crosshairs

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On the evening of April 9, 2025, the Trump administration released a pair of deregulatory executive actions that could have major implications for any industry subject to federal rules — and are also likely to be a magnet for litigation. These orders come fast on the heels of an April 8 executive order, "Protecting American Energy from State Overreach," which announces actions to curtail state and local laws and policies focused on climate change and environmental justice.

First and more straightforward of the two is a presidential memorandum titled "Directing the Repeal of Unlawful Regulations," which directs the heads of all executive departments and agencies to "identify certain categories of unlawful and potentially unlawful regulations within 60 days" and to submit summaries of the targeted regulations to the White House within 90 days.

In so doing, agencies are directed to "evaluat[e] each existing regulation's lawfulness" under a list of 10 Supreme Court decisions from the past 10 years. First on the list, curiously, is *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), which reversed *Chevron* deference by shifting the power to interpret ambiguous statutory authority from the executive to the judicial branch. Agencies are also encouraged to repeal targeted regulations without notice and comment, "where doing so is consistent with the 'good cause' exception in the Administration Procedure Act." Given that this exception has historically been read narrowly, implementation of this order may spark a wave of legal challenges.

The second action, an executive order titled "Zero-Based Regulatory Budgeting to Unleash American Energy," directs agencies and sub-agencies that regulate energy industries to amend "all regulations" promulgated under a specified list of statutes to include a "Conditional Sunset Date" by no later than September 30, 2025.[1] Section 4(a). "Conditional Sunset Date" is defined as "the date a regulation will cease to be effective and be removed from the Code of Federal Regulations, if the agency does not extend the Sunset Date[.]" In order to extend the sunset date for a regulation, an agency must affirmatively seek public comment on "the costs and benefits of each regulation" prior to the expiration of the rule. These extensions can be offered indefinitely, but each extension can be no more than five years in duration. Section 4(d).

This order comes with a potentially significant exemption, as it "shall not apply to regulatory permitting regimes authorized by statute." Section 5(c). However, it is unclear how the administration will define a "permitting regulation," as many regulations are hybrids of permitting, enforcement, and other purposes. The extent to which a particular regulation is "authorized by statute" can also be ambiguous, and (as noted above) agencies are not afforded the same deference on such matters as they were in the *Chevron* era.

 

This order and its implementation could likewise face multiple legal challenges. Notably, the order creates a great deal of sophisticated new regulatory work for federal agencies at a moment when career staff are depleted and demoralized. Finally, while the logic of a sunset provision is understandable (and many energy regulations have long outlived their utility), its broad application could create major regulatory uncertainty for the very energy industries that this administration hopes to catalyze.

Troutman Pepper Locke will continue to monitor these orders as they are implemented. For questions or to discuss how these developments may impact your business and projects, please contact the authors.

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[1] We note that some of the statutes listed in the order are paired with the wrong agencies—for instance, the National Marine Fisheries Service (and not United States Fish and Wildlife Service) administers the Marine Mammal Protection Act and the Magnuson–Stevens Fishery Conservation and Management Act.

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