

Top 5 Energy Policy Areas To Watch In 2025

By **Keith Goldberg**

Law360 (January 1, 2025, 8:01 AM EST) -- President-elect Donald Trump's return to the White House and incoming Republican control of Capitol Hill heralds a major swing in energy policy toward a renewed push for reliance on fossil fuels and away from a focus on promoting clean energy and tackling climate change.

The new year will see attempts to unwind President Joe Biden's climate change regulations and his signature climate change legislation, the Inflation Reduction Act, while clearing the path for increased oil and gas development.

Here are pivotal legislative and regulatory moves the energy industry should watch closely this year:

An Uncertain Future for the Inflation Reduction Act

Trump has vowed to repeal all or parts of the landmark climate change legislation, which has showered hundreds of billions of dollars on clean energy and decarbonization technologies, and he has a GOP-controlled Congress to help him carry out that agenda.

Experts say a full repeal of the IRA is highly unlikely, especially since more and more Republicans whose states or districts are benefiting from the law in the form of new projects or manufacturing facilities are publicly balking at the prospect.

"It will be done on a case-by-case basis, more likely than anything wholesale, and there will be a strong pushback from red-state Republicans where those investments have already taken place and where they've been announced in their communities," said Dennis Cardoza, who co-chairs Foley & Lardner LLP's federal public affairs practice and is a former congressman from California.

Tax credits covering electric vehicles and any unspent grant money from the U.S. Department of Energy are two obvious repeal targets, attorneys say. Another way to pare down the IRA would be to rewrite eligibility guidance for its tax credits, or shrink their availability timeline.

"The way the IRA credits are constructed, they sunset many years in the future," Gibson Dunn & Crutcher LLP tax partner Matt Donnelly said. "One could easily see that being a dial people turn to generate revenue and move up the credit phaseout dates."

Keith Martin, who co-leads Norton Rose Fulbright's U.S. projects practice, said tax credit guidance

finalized in the latter days of the Biden administration — such as for the investment tax credit, wage and apprentice requirements and tax credits for manufacturers of solar, wind and storage components and critical minerals processors — could also be at risk of repeal using the Congressional Review Act. But the law has never been used for tax purposes, Martin said.

"One question people have been asking is: what happens if there are no regulations, but you still have a statute?," Martin said. "I think the answer is, the law firms would figure out what they're able to opine on in the absence of regulations just based purely on the statute."

Threat of Tariffs Brings Anxiety

Unlike changes to the IRA, tariffs can be imposed with just the stroke of the president's pen. And Trump's pledge to aggressively impose tariffs has the energy industry on edge, especially those in the business of renewable energy sources including wind, solar and battery storage.

Hogan Lovells partner Michael Bonsignore, who focuses on clean energy development, told Law360 that U.S. industries will be hard-pressed to ramp up manufacturing and production in a short amount of time to survive a potential chilling effect from the promised tariffs.

"There is not enough domestic-made supply for the clean energy sector to fuel the continued need of growth," he said.

K&L Gates LLP of counsel Felisa Sanchez, who works on offshore wind development, said it will be a tricky balancing act for Trump, and any potential tariffs will also have to be weighed against any moves to rescind IRA benefits for clean energy manufacturing.

"The costs of projects have just skyrocketed with supply chain delays ... and additional tariffs are something that would increase those costs even more," Sanchez said. "You have to support U.S. manufacturing without shooting the existing manufacturing structure dead, because a lot of parts and components are in fact, imported."

A Fossil Fuel Shift on Federal Lands

Attorneys expect the Trump administration to immediately move to expand offshore oil and gas development on federal lands and in federal waters by rolling back Biden-era regulations that limited available drilling lands and revising the five-year offshore drilling program to offer up more acreage.

"I take the president-elect at his word, that he's going to promote drilling," said Cardoza of Foley & Lardner.

The oil and gas focus will likely come at the expense of renewable energy development, particularly offshore wind, which Trump has publicly opposed. John Northington Jr., a government affairs adviser at K&L Gates and a former adviser at the U.S. Department of the Interior, said the agency may revise regulations governing offshore renewable energy development and a five-year offshore wind leasing program, both of which the Biden administration finalized in April.

"Those are two things that would warrant some attention," Northington said.

Push for Project Permits to Get a Boost

Trump said last year that he would reauthorize the Keystone XL pipeline, even though the controversial project had its plug pulled in 2021 after Biden yanked its cross-border permit. But attorneys say Trump's stated goal is likely code for ways to speed up permitting of oil and gas operations.

"I think all indications point to a fairly early effort by the Trump administration to streamline the permitting process," said Jim Noe, who co-chairs Holland & Knight LLP's oil and gas practice.

There are plenty of things the Trump administration can do on the regulatory side. For example, any efforts to relax the use of the National Environmental Policy Act will be boosted by a recent blockbuster D.C. Circuit ruling that said the White House Council on Environmental Quality does not have the authority to issue legally binding NEPA implementation rules.

But more significantly, Republican control of Congress will bring a fresh push for legislation that speeds up the permitting of energy and infrastructure projects, attorneys say. Bipartisan legislation was proposed in July to accelerate permitting for fossil fuel, clean energy and transmission projects, but Cardoza of Foley & Lardner said the GOP's fossil fuel preferences doesn't mean lawmakers will abandon other categories of energy projects in a permitting bill.

"I expect transmission to be a high priority despite their view that it should be an 'all of the above' strategy," Cardoza said. "I think they understand that a healthy economy is going to need a lot of generation capacity."

A Change at the Top of FERC

The Federal Energy Regulatory Commission will have a Republican chair once Trump takes office, though Democrats will maintain a 3-2 majority barring any commissioner resignations.

That means large-scale policy shifts are unlikely to come from the five commissioners, attorneys say. But with a GOP chairman's ability to set the agency's agenda, things like speedier reviews of gas infrastructure projects could be in the cards, as well as following the Trump administration's broader aim of de-emphasizing the federal government's focus on environmental justice.

"The Biden administration implemented a 'whole of government' approach to environmental justice, and that includes permitting projects before FERC," said Kirstin Gibbs, who co-leads Morgan Lewis & Bockius LLP's energy industry team.

While FERC will continue to implement its overhaul of regional grid planning and interconnection policies, that process might not be done with the aim of getting more renewable energy on the grid as it was with a Democratic chairman, said Gibson Dunn energy regulatory partner Tory Lauterbach.

"Interconnection and transmission reform are going to continue to be big pieces of the agenda, but with a different focus: paying attention to load growth," Lauterbach said.

The focus on load growth is epitomized by the increased power needs of artificial intelligence and data centers, attorneys say. FERC commissioners recently rejected a proposal allowing a nuclear power plant to exclusively supply electricity to an Amazon data center, but that issue isn't going away, said Mintz Levin Cohn Ferris Glovsky and Popeo PC member Steven Shparber.

"In many ways, it's a bipartisan issue," Shparber said. "How FERC is going to address the issues of getting power to data centers is very interesting."

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