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What Biden executive orders could mean for the energy sector

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By Heather M. Palmer | on December 21, 2020

Energy was a central issue in the U.S. election, a defining issue for President-elect Joe Biden, who marked addressing climate change as an imperative.

Biden plans to pursue an ambitious clean energy agenda that seeks to transition the U.S. economy away from fossil fuels toward net-zero emissions no later than 2050.

To accelerate the energy transition, he has announced that he will sign a series of executive orders on day one of his presidency that will directly affect the oil and natural gas industry.

President-elect Biden plans to issue an executive order

that would require aggressive methane emissions limits for new and existing oil and gas operations. During the Trump administration, the Environmental Protection Agency rescinded methane emissions standards applicable to the oil and natural gas industry. Biden's executive order would seek to impose air emissions limitations on oil and gas producers, processors, and pipelines, resulting in increased compliance costs and more EPA enforcement actions.

President-elect Biden also plans to issue an executive order requiring public companies to disclose climate risks and greenhouse gas emissions resulting from their operations and supply chains. Public energy companies have enhanced their disclosures around climate change risks over time in response to the Securities and Exchange Commission's Guidance Regarding Disclosure Related to Climate Change, published in 2010, and increased interest from investors and other stakeholders.

While the SEC's recent amendments to its reporting requirements do not address climate risks, it is expected that during the Biden administration the SEC will adopt guidance or amend its regulations to require disclosure of climate risks as part of a broader push for

disclosure of environmental, social and governance risks by public companies.

Another day one executive order will require any federal permitting decision to consider the effects of greenhouse gas emissions and climate change.

Projects that are found to have a significant impact on greenhouse gas emissions could be denied approval or would need to mitigate against climate change effects.

This includes a commitment that every federal infrastructure investment should reduce climate pollution as part of Biden's "all-of-government" approach.

Additionally, Biden plans to issue an executive order banning new oil and gas permitting on public lands and modifying royalties to account for climate costs. This executive order will not only limit oil and gas drilling but will also result in higher royalty payments to the federal government.

Yet another executive order will require stronger protections for endangered and threatened species and migratory birds. The Biden administration will revisit rules limiting the reach of the National Environmental Policy Act, the Endangered Species Act and the Migratory Bird Treaty Act. As a result, oil and gas

operations may be restricted in certain protected areas or the costs of mitigating a project's impacts on wildlife may significantly increase.

Finally, some of President-elect Biden's day-one executive orders are aimed at decreasing the demand for fossil fuels which, in turn, will affect the oil and gas industry. For example, one of the executive orders will seek to reduce emissions through new, aggressive appliance- and building-efficiency standards. As less energy is consumed, the need for fossil fuels to produce this energy decreases.

Another executive order seeks to accelerate investment in advanced biofuels, which will displace traditional fossil fuels in cars, planes, ocean-going vessels, and more. And yet another executive order seeks to develop rigorous new fuel economy standards aiming at ensuring 100 percent of new sales for light- and medium-duty vehicles will be electrified, further reducing the need for oil and natural gas production.

Biden has set an ambitious agenda for achieving climate change reductions through executive orders, but the reality may be more about incremental changes, particularly if the Republicans maintain their majority in the Senate. Many of the executive orders

will require rulemaking or other efforts to effectuate and may initially be more symbolic than result in immediate changes in law.

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