



“Back to the Future” Oil & Gas Environmental Regulatory Agenda in the Biden Administration

4 March 2021

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Our Energy Practice Group includes more than 100 lawyers and professional landmen with diverse backgrounds, experiences and skill sets specific to the energy industry. Our clients call us for their most critical matters requiring sophisticated and practical advice. With 50 years of energy experience, we serve clients from offices located in key energy-related and financial hubs, such as Houston, London, Mexico City, New York, Denver, Dallas, and Washington, D.C. Our lawyers regularly represent clients in connection with transactions, regulatory issues, disputes and restructurings. We are organized by teams or “working groups” covering the following areas:

- Commodities
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- Energy Regulatory
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- Liquefied Natural Gas (LNG)
Mexico Energy Reform
- Midstream
- Mining and Metals
- Offshore Oil and Gas
- Offshore Oil and Gas Dispute Resolution
- Oil and Gas
- Oil and Gas Litigation
- Oilfield Services
- Power and Renewables

U.S. News - 2020

**Ranked in National
Tier 1 in Oil & Gas Law
and Energy Law.**



Oil and Gas ESG Tracker

- HB and EnerCom are tracking the publicly disclosed ESG policies of 30 US-listed independent operators with US onshore operations.
- The Tracker will summarize findings from each operator's ESG disclosures located in annual reports, proxy statements and other filings, corporate social responsibility reports, company websites, etc.
 - Tracker will reflect changes to disclosures of quantitative and qualitative data.
- We expect to publish a joint report 3x/year on HB and EnerCom websites (Spring, Fall and End-of-Year).
 - Inaugural tracker will be released in March 2021 with an updated tracker published later this Spring after the proxy season.

Introduction & Speakers



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Executive Orders

- Jan. 20, 2021 Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis
- Jan. 20, 2021 Acceptance of the Paris Agreement
- Jan. 27, 2021 Executive Order Tackling the Climate Crisis at Home and Abroad

Key Appointments

Secretary of Energy:
Jennifer Granholm,
former Governor of Michigan

**Senior Policy Advisor to SEC
for Climate and ESG:**
Satyam Khanna,
former NYU fellow

Secretary of the Interior:
Deb Haaland,
former New Mexico Congresswoman

Climate Change Czars:
John Kerry,
former Secretary of State

Gina McCarthy,
former EPA administrator

Deputy Director of the BLM:
Nada Culver,
environmental attorney

FERC Chairman:
Biden will appoint a Democrat as chair, but
3-2 GOP advantage until Neil Chatterjee's
term ends in June.

Key Appointments

EPA Administrator:

Michael Regan,
North Carolina State Environmental Secretary

EPA Deputy Administrator:

Janet McCabe,
IU Law Professor

Council on Environmental Quality:

Brenda Mallory,
former GC of CEQ and EPA lawyer

The Fate of Trump's Regulations

- Significant Contribution Finding for GHGs
- NEPA
- Migratory Bird Rule on Incidental Taking
- FWS ESA Regulations on Designating Critical Habitat
- Section 404 NWP Renewal
- WOTUS
- Methane Regulations

And What Happens to the Court Cases and DOJ Policy?

- Science Transparency Rule - Vacated and Remanded
- NEPA
- RFS
- Reversal of Supplemental Environmental Projects
- EPA Audit Policy

“Doc, are you telling me that you built a climate machine out of a DeLorean?”

Social Cost of Carbon / Cost Benefit Rule

Technical Support Document: Social Cost of Carbon, Methane and Nitrous Oxide – Interim Estimates Under Executive Order 13990

- The estimates of the social cost of carbon (SC-CO₂), social cost of methane (SC-CH₄), and social cost of nitrous oxide (SC-N₂O) presented here **allow agencies to incorporate the social benefits of reducing emissions of each of these greenhouse gases, or the social costs of increasing such emissions, in decision making.** Collectively, these values are referenced as the “social cost of greenhouse gases” (SC-GHG) in this document. The SC-GHG is the **monetary value of the net harm to society associated with adding a small amount of that GHG to the atmosphere in a given year.**
- The SC-GHG, therefore, should reflect the societal value of reducing emissions of the gas in question by one ton. The marginal estimate of social costs will differ by the type of greenhouse gas (such as carbon dioxide, methane, and nitrous oxide) and by the year in which the emissions change occurs.

“I guess you guys aren’t ready for that yet, but your kids are gonna to love it”

- Decarbonize the Energy Industry by 2035
- Net Zero by 2050
- CO₂
- NO_x
- Methane

Where Are We Now?

- Interior Order No. 3395
 - 60 day order issued January 20, 2021 (Inauguration Day)
- Temporarily Suspending Delegated Authority at the Bureau or Field Office level
 - Bureau of Safety and Environmental Enforcement
 - Bureau of Ocean Energy Management
 - Bureau of Land Management
- To issue:
 - Leases (including amendments and extensions)
 - Permits to Drill
- Does not apply to:
 - “Operations under valid leases”
 - “Authorizations necessary to:”
 - Threats to human health, welfare or safety
 - Avoid adverse impacts to public land and mineral resources

Where Are We Now?

- Five New House Bills Introduced on March 2
 - Ending Taxpayer Welfare for Oil and Gas Companies
 - Methane Waste Prevention Act of 2021
 - Restoring Community Input and Public Protection in Oil and Gas Leasing Act
 - Bonding Reform and Tax Payor Protection Act
 - Transparency in Energy Production Act

Back to Future Part 2

- What's Ahead
- Permitting
- Infrastructure Costs
- Controls
- Taxes and Tariffs
- Carbon Neutrality by 2050

Questions?



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