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Energy Blog

Industry Update: Biden Administration Issues Moratorium on New Federal Oil and Gas Leasing

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On January 27, 2021, President Joe Biden signed an Executive Order imposing a moratorium (the “Moratorium”) on new federal oil and gas leasing following the previous issuance of a 60-day suspension of the Department of Interior’s authority to issue federal oil and gas drilling permits. The Moratorium will temporarily prohibit new leasing auctions on federal lands and in the Gulf of Mexico while the Biden administration reviews the existing leasing program (including royalty rates associated with oil and gas production) and its expected environmental impacts. This announcement comes less than a week after Biden signed an executive order revoking approval of the partially completed Keystone XL Pipeline from Canada. Both highly anticipated decisions are consistent with Biden’s campaign promises and mark reversals from the Trump administration’s energy development policies.

While the Moratorium will go into effect immediately, the initial effects will likely be partially muted as the Moratorium will not affect operations on existing leases or drilling permits on valid leases, which comprise millions of acres of federal lands and federal offshore areas. The 60-day suspension only excludes “existing operations on valid leases”; however, the Moratorium clarifies that new drilling permits on existing and valid leases will continue to be reviewed and approved. Even if the Department of Interior delays approving new drilling permits on existing leases, it appears a number of companies with existing operations on federal leases proactively obtained drilling permits in the three-month period leading up to Biden’s inauguration. Some sources have reported that Interior officials approved 1,400 permits on federal lands in that three-month period.

Tribal lands are also exempt from the Moratorium. The Ute Tribe made a public request for an exemption to the 60-day suspension and Moratorium citing the potential economic hardship on the tribe's oil and gas operations as well as sovereignty encroachment.

Critics of the Moratorium point to the expected reduction in federal tax revenues and, potentially, a higher dependence on foreign oil imports. Revenue from oil and gas leasing on federal/tribal lands and federal waters accounts for approximately one quarter of annual U.S. production and has historically generated significant revenue for federal, state, municipal and tribal governments, including $8.7 billion in 2020 (according to the Interior Department's Office of Natural Resource Revenue). However, since the announcement of the 60-day suspension, hydrocarbon prices have increased and some market participants expect E&P companies focused on non-federal lands may benefit from the Moratorium (through higher hydrocarbon pricing). Whether or not the Moratorium is a temporary measure to give the Biden administration time to examine the implications of federal oil and gas leasing or the first step towards a permanent ban on all federal leasing is unclear.

In addition to the Moratorium, Biden has directed the Department of the Interior to conserve 30% of federal lands and ocean waters by 2030. While the long-term impact of this directive also remains unknown, it is another indication that the Biden administration will stick to its campaign promise to promote clean energy alternatives.

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