

Top Three Ways to Reduce Regulation and Create Jobs in the Western Oil and Natural Gas Industry

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Western Energy Alliance is encouraged by the issuance of President Obama's Executive Order regarding the elimination of government red tape by reviewing regulations that stifle job creation and rolling back regulations that are redundant or do not make sense. Western energy producers view these words and action as a positive sign that the Obama administration will begin to ease some of the burdens it has placed on western energy producers in recent months.

Western Energy Alliance has documented \$3.9 billion that was prevented from being invested in oil and gas development in the West in 2010 because of red tape and over regulation. That investment could have helped create upwards of 16,000 jobs. Below are three areas in which regulation could be reduced in a meaningful way while still protecting the environment and encouraging domestic energy production.

EPA Overreach: Recent EPA regulatory expansions impose excessive burden on US industries, lack consistent and clear application, have unrealistic implementation timelines, introduce high levels of uncertainty into business decisions, and often lack a clear rationale for pursuing. The troubling pace and volume of regulatory action raises important questions about EPA's capacity to effectively manage its own agenda. EPA's overreach is having a chilling effect on economic growth and investment, and diverting precious time, energy, and resources away from job creation.

The oil and natural gas industry is one of the most highly regulated industries in the United States. Even so, EPA is attempting to implement several major new regulations which will limit American companies' ability to produce clean, domestic energy and will result in higher prices for consumers. The EPA's steadfast pursuit of greenhouse gas regulations and a new federal ozone standard which will designate much of the country as non-attainment will affect the entire economy.

Many of these regulations on the oil and natural gas industry are poorly thought-out and implementation is rushed and unworkable. For example:

- Although the mandatory greenhouse gas reporting rule requires extensive preparation and procurement of expensive consulting services and equipment before data gathering can begin, EPA did not budge on implementation, and published the final rule with less than two months before the full implementation date. EPA cost estimates were 10 times lower than what companies expect to pay.
- EPA is indefinitely halting oil and gas projects on public lands in the West as it keeps changing its mind on what air quality studies are necessary for project environmental analyses. Companies are being asked to go back again and again to conduct new studies each time EPA changes its mind, delaying projects which would otherwise create tens of thousands of jobs.
- EPA is studying the hydraulic fracturing process for the third time with the intention of developing redundant federal regulation of the process. EPA is doing this despite the fact that numerous states across the country have said that the method is safe and that they are regulating it properly.
- The new one-hour NO₂ standard was intended to reduce emissions along major transportation corridors in urban areas, yet is being applied to remote oil and gas operations far-removed from population centers. The implementing guidance is unworkable and EPA has not validated the models necessary to show compliance with the rule.
- New regulations for minor source air permitting in Indian Country are due in February. EPA has not demonstrated a willingness to phase in implementation so that all oil and gas development does

not immediately stop on tribal lands while waiting for EPA to issue permits that it lacks manpower to process.

- EPA will open new, major rule making on New Source Performance Standards (NSPS) and National Emissions Standards for Hazardous Air Pollutants (NESHAP) for the industry in January 2011.

Redundant Interior Onshore Regulations: The Department of the Interior created new policies in 2010 that will add three additional layers of regulation to exploration and development of oil and natural gas on America's extensive non-park, non-wilderness public lands. These regulations are in addition to the existing five levels of regulation and analysis that have made development on federal lands more time-consuming and difficult than on private lands for decades.

- New procedures will add years to the process of leasing lands. Recent technological and geophysical advances have increased the ability of industry to develop unconventional energy resources, and highly prospective lands may wait years for exploration, further preventing job creation.
- Interior continues to defer to EPA on project environmental analysis under the National Environmental Policy Act (NEPA), thereby delaying energy development and job creation indefinitely. EPA is bogged down trying to implement new regulations (see above) and considers their mission to be irrespective of regulatory impact on jobs and the economy. Interior could choose to move forward with projects despite EPA intransigence, since statutes and case law support Interior decision-making autonomy.
- The final permitting process is slow, costly, and cumbersome, often taking two years to complete. Western Energy Alliance stands ready to work with Interior to identify ways to streamline permitting processes while still protecting air, water, land, cultural and wildlife resources and restore balance to the regulatory process.
- Interior has rolled back categorical exclusions (CX), which were designed to streamline the permitting process and encourage energy development where the environmental impact is minimal, and where drilling was previously analyzed in an environmental document. CXs enabled timely permit processing so that federal land managers could spend more time in the field monitoring and enforcing, and industry could create jobs.

Duplicating and Usurping State Regulation: States have effectively regulated oil and gas operations for decades, with an exemplary safety and environmental record, especially when compared to the federal government's recent record. States have the expertise in regulating all aspects of well construction and completions, including hydraulic fracturing, as well as the intimate knowledge of the unique geologic, natural resource, and local characteristics of each basin within their boundaries. Despite that expertise and record, the federal government continues to chip away at states' regulatory jurisdictions in a number of sectors. Western Energy Alliance stands with state regulators who understand the needs of the communities that they regulate much better than a far-removed federal government, and who have the specific technical expertise and experience that EPA lacks. States also balance the imperatives of environmental protection with economic impact and job creation, concerns that EPA repeatedly indicates it does not share.

- Western Energy Alliance requests that the federal government, both EPA and DOI, refrain from new regulations on hydraulic fracturing until the completion of EPA's study of fracing, especially given the unlikelihood that the study will credibly demonstrate a federal regulatory regime is superior to a state-based one.
- Western Energy Alliance calls on the Administration to prevent recent EPA efforts from usurping states regulatory authority, such as efforts to impose new aggregation standards and roll back air permitting that has been in place for years.