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The Federal Renewable Energy Flip-Flop – a Dance for the Ages

The Trump Administration has consistently prioritized fossil fuel development over renewable energy. Some of President Trump's first-term policies allowed limited support for renewables, but the second term has seen a marked shift toward rolling back incentives, pausing permitting, and imposing regulatory hurdles that have significantly impacted the renewable energy sector.[1]

This blog outlines examples of some of the more extreme "flip-flops" that cause clients (no matter their political affiliation) concern.

The Paris Agreement on Climate Change. Key Flip Flops (2016-2021)

In December 2015, more than 190 countries adopted the Paris Agreement, the most ambitious climate change agreement in history. To be effective, at least 55 countries representing at least 55 percent of global carbon emissions needed to formally join the agreement.

On September 3, 2016, the U.S. and China deposited their respective instruments with the United Nations Secretary-General to join the Paris Agreement, but those submissions represented only 40 percent of global emissions. Ultimately, after ratification by the European Union, the agreement obtained enough parties to become effective on 4 November 2016.

In 2017, President Trump announced the U.S. withdrawal from the Paris Climate Accord, signaling a shift away from international commitments to reduce carbon emissions.

On January 20, 2021, on his first day in office, President Biden signed the instrument to bring the U.S. back into the Paris Agreement. Per the terms of the agreement, the U.S. officially became a party once again.

Then, on his first day in office, January 20, 2025, President Trump ordered the U.S. Ambassador to the United Nations to immediately submit formal written notification of the U.S. decision to withdrawal from the Paris Agreement stating that "the U.S. will consider its withdrawal from the agreement and any attendant obligations to be effective immediately upon this provision of notification."

During the first Trump Administration, the president then proposed dramatic budget cuts to renewable energy research and development, particularly targeting the U.S. Department of Energy's Office of Energy Efficiency and Renewable Energy. In addition, more federal lands were opened for oil and gas drilling, and environmental regulations were rolled back to facilitate fossil fuel production.

Trump's Second Term Escalation (2025-Present)

On January 20, 2025, President Trump signed 188 executive orders many of which are aimed at reversing Biden-era climate and energy policies. These included: declaring a national energy emergency; revoking the U.S. International Climate Finance Plan; pausing new wind and solar permits on federal lands; and withdrawing from the United Nations Framework Convention on Climate Change financial commitments.

President Trump also halted new offshore wind leasing and froze federal permitting for both offshore and onshore wind projects. This action withdrew all areas of the Outer Continental Shelf from new or renewed wind energy leasing. Additionally, the memorandum ordered a review of the federal government's wind leasing and permitting practices.

The administration also moved to cancel permits for fully approved projects such as the Lava Ridge Wind Project in Idaho and Empire Wind off the coast of New Jersey.

The EPA's Biggest Regulatory Rollbacks in History

On March 12, 2025, the Environmental Protection Agency (EPA) announced the "biggest deregulatory action in U.S. history" that involve 31 deregulatory actions, which the administration states are aimed at reducing regulatory burdens, promoting domestic energy production and shifting decision-making authority back to state governments. The actions include, among others:

- Reconsideration of regulations on power plants (Clean Power Plan 2.0)
- Reconsideration of regulations throttling the oil and gas industry (OOOO b/c)
- Reconsideration of Mercury and Air Toxics Standards that improperly targeted coal-fired power plants
- Reconsideration of mandatory Greenhouse Gas Reporting Program that imposed significant costs on the American energy supply
- Reconsideration of limitations, guidelines, and standards for the Steam Electric Power Generating Industry to ensure low-cost electricity while protecting water resources
- Reconsideration of wastewater regulations for oil and gas development to help unleash American energy
- Reconsideration of Biden-Harris Administration Risk Management Program rule that made America's oil and natural gas refineries and chemical facilities less safe
- Reconsideration of light-duty, medium-duty, and heavy-duty vehicle regulations that provided the foundation for the Biden-Harris electric vehicle mandate
- Reconsideration of the 2009 Endangerment Finding, as well as regulations and actions that rely on that finding
- Reconsideration of technology transition rule that forces companies to use certain technologies that increased costs on food at grocery stores and semiconductor manufacturing (Technology Transition Rule)
- Reconsideration of Particulate Matter National Ambient Air Quality Standards that shut down opportunities for American manufacturing and small businesses (PM 2.5 NAAQS)

- Reconsideration of multiple National Emission Standards for Hazardous Air Pollutants for American energy and manufacturing sectors
- Restructuring the Regional Haze Program that threatened the supply of affordable energy for American families
- Overhauling Biden-Harris Administration's "Social Cost of Carbon"
- Redirecting enforcement resources to EPA's core mission to relieve the economy of unnecessary bureaucratic burdens that drive up costs for American consumers
- Terminating Biden's Environmental Justice and DEI arms of the agency

Interior Department Actions

On May 14, 2025, the U.S. Department of the Interior (DOI) announced the proposed rescission of a Biden-era rule governing solar and wind energy development on public lands. The proposed rescission of the Bureau of Land Management's clean energy regulation marks a significant policy shift, aimed at removing what officials describe as federal overreach and opening the door to expanded land use and energy independence.

On July 17, 2025, the DOI also imposed elevated review processes for wind and solar projects requiring review by the Office of the Secretary, including leases, rights-of-way, construction and operation plans, grants, consultations, and biological opinions.

Corps of Engineers – Department of the Army

In February 2025, the U.S Army Corps of Engineers temporarily paused the Clean Water Act permitting related to wetland impacts affecting 168 renewable energy projects. The pause, which began around February 5-6, 2025, was initially a response to the executive order titled "Unleashing American Energy."

The pause was lifted for most projects on February 6, 2025, but it has remained in place specifically for onshore wind projects. The permits in question involve federal jurisdictional determinations and dredge-and-fill permits for projects on private land that affect “waters of the U.S.” under Section 404 of the Clean Water Act.

Impacts on Tax Incentives and Funding. Inflation Reduction Act Rollbacks.

The administration slashed renewable energy incentives embedded in the Biden-era’s 2022 Inflation Reduction Act, limiting eligibility for remaining tax credits. On August 15, 2025, the Internal Revenue Service released Notice 2025-42 that provides guidance related to the “beginning of construction” requirements for wind and solar facilities in relation to the termination of clean electricity production credits (I.R.S. Code section 45Y) and clean electricity investment credits (section 48E). The guidance is designed to “strictly enforce the termination of the clean electricity production and investment tax credits under sections 45Y and 48E” for wind and solar facilities and “to ensure that policies concerning the ‘beginning of construction’ are not circumvented.” Under July 4, 2025, budget act, (Public Law 119-21), facilities placed in service after December 31, 2027, and whose construction begins after July 4, 2026, will no longer qualify for the credits. In effect, the Treasury Department Directive ordered strict interpretation of tax credit eligibility, requiring substantial construction progress before credits could be claimed.

The Poster Child of Flip-Flops: EPA’s Attempt to Clawback Funds for the Solar for All Program.

The Solar for All Program was established under the Biden-era Inflation Reduction Act of 2022, aimed at funding initiatives across the country that would increase solar energy access, reduce emissions, and lower energy costs for low-income households.

A total of $7 billion was allotted by Congress to the program. In the summer of 2024, the EPA awarded funds to 60 grant recipients – including states, territories, Tribal governments, municipalities, and eligible nonprofit recipients to expand the number of low-income and disadvantaged communities primed for distributed solar investment. Grant recipients agreed to use the funds to expand existing low-income solar programs and to design and deploy new Solar for All programs nationwide.

According to the EPA, 100 percent of solar projects receiving subsidies and low-cost financing under the program will deliver meaningful benefits to households.

- 90 percent of grant recipients plan to fund residential rooftop solar.
- 88 percent of grant recipients plan to fund the deployment of residential-serving community and shared solar through diverse ownership models that enable households in disadvantaged communities to access the additional economic benefits of asset ownership.
- 78 percent of grant recipients plan to fund storage solutions, maximizing residential rooftop and residential-serving community solar deployment, increasing the resilience of the power grid, and delivering electricity to vulnerable communities during grid outages.

Examples of the awards include:

- **State-level awards:** 49 awards totaling approximately $5.5 billion.
    - State of Rhode Island Office of Energy Resources
    - Connecticut Department of Energy & Environmental Protection
    - State of Maine's Governor's Energy Office
    - Colorado Energy Office
    - California Infrastructure Economic Development Bank
    - New York State Energy Research and Development Authority
    - Washington State Department of Commerce
- **Awards to serve Tribes:** Six awards totaling over $500 million, including to the Hopi Utilities Corporation and Tanana Chiefs Conference. More than $500 million, or over 7 percent of Solar for All funding, was dedicated to Tribal communities.

The Trump Administration's Initial Freeze of the Solar for All Program Funds. In February 2025, the Trump Administration froze the $7 billion Solar for All program funds. This action was part of a broader review and effort to halt Biden-era climate spending and prioritize fossil fuels.

The Unfreeze. A month later in March, following court orders and legal challenges from grant recipients and states, the EPA unfroze the Solar for All funds. This allowed grant recipients to once again access and draw down the awarded funds.

The Second Freeze and Termination of Solar for All. On August 7, 2025, EPA Administrator Lee Zeldin initially announced on social media that EPA would terminate all 60 grants from Solar for All Program. Awardees of the grants then received formal termination letters that attributed the move to a provision in the July

4, 2025, tax-and-spending bill (Public Law 119-21) alleging that the statute rescinded funding for both "grant appropriations and the EPA's administrative cost appropriation."

Legal Challenges. Several actions, including permitting freezes and stop-work orders, are vulnerable to legal challenges under the Administrative Procedure Act. For that rabbit hole, I recommend that you access one of the best services that tracks litigation related to actions during the Trump second term – including lawsuits related to renewable energy – which is the Lawfare Media Litigation Tracker that lists: 334 active cases challenging Trump Administration actions; 12 lawsuits by the Trump administration challenging state and local laws; 48 suits or appeals dismissed; 14 U.S. Supreme Court stays or orders to vacate lower court orders; one U.S. Supreme Court affirmation of a lower court order; eight suits where judges ruled for the federal government; and 23 suits where judges ruled against the federal government.

Public Reaction.

Public reaction to the Trump administration's energy and environmental policies has been mixed and largely divided along political lines.

The Pew Research Center compiled data in its June 5, 2025, report showing the mix.

Key Highlights:

While wind and solar power are still popular overall, Americans have become less supportive of these sources since the first Trump Administration. This shift has been driven by sharp declines in support among Republicans and those who lean Republican.

Nuclear power has seen an increase in support in recent years, with more positive views among Republicans and Democrats alike.

Phasing out the production of new gasoline cars and trucks by 2035 is unpopular with Americans. A majority oppose this proposal, and opposition has become more widespread since 2021 (among both Republicans and Democrats).

Americans are more likely to say they would seriously consider buying a hybrid vehicle (45 percent) than an electric vehicle (33 percent). Democrats remain more likely than Republicans to say that next time they purchase a vehicle, they would be interested in buying a hybrid or electric model.

In addition, the Pew Research report found that, while 69 percent of Americans support offshore wind farms, the administration's actions contrast with public sentiment in favor of such projects.

Conclusion

The Trump Administration's second term has marked a significant retreat from renewable energy development, favoring fossil fuel expansion and deregulation. While market forces continue to support the growth of renewables, federal policy has introduced substantial barriers that may slow progress, and not surprisingly, has provoked legal challenges.

This blog was drafted by John Watson, an attorney in the Spencer Fane Denver, Colorado, office. For more information, visit www.spencerfane.com.

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[1] The Institute for Energy Research maintains an exceptional compendium titled, "200 Actions the Trump Administration and Congressional Republicans Have Taken to Unleash Our Energy Potential."

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