Trump administration moves to revise Obama-era energy regulations through rulemaking process

December 29, 2017

Following several executive orders issued by President Donald Trump earlier this year to suspend, revise, or rescind regulations or actions that unnecessarily burden the development of domestic energy resources, the Department of the Interior (DOI) and the Environmental Protection Agency (EPA) announced rulemaking revisions to offshore drilling protections, fracking regulations, and the Clean Power Plan (CPP) in the final days of 2017.

On December 29, the Bureau of Safety and Environmental Enforcement (BSEE) published a proposed rule (82 FR 61703) to amend certain regulations for oil and natural gas production and safety standards that were previously instituted under the Obama administration. This rule would update the 30 CFR part 250, subpart H, Oil and Gas Production Safety Systems regulations, which were substantially revised by a final rule (81 FR 61834) that BSEE published on September 7, 2016, addressing issues such as production safety systems, subsurface safety devices, and safety device testing in an effort to better protect workers and the environment. The new regulatory proposal from BSEE states that these new amendments would reduce unnecessary burdens imposed on operators under the current regulations, while providing the same level of safety and protection of the environment. In an Initial Regulatory Impact Analysis, BSEE estimates that the proposed rule would reduce industry compliance burdens by $33 million annually. The public comment period for the proposed changes is open until January 29, 2018.

Similarly, the Bureau of Land Management (BLM) published a final rule (82 FR 61924) to rescind a 2015 rule on hydraulic fracturing (80 FR 16128) that never took effect due to pending litigation. The rule was intended to ensure that wells are properly constructed to protect water supplies, make certain that the fluids that flow back to the surface as a result of hydraulic fracturing operations are managed in an environmentally responsible way, and provide public disclosure of the chemicals used in hydraulic fracturing fluids. The BLM now justifies rescinding the rule due to unreasonable administrative burdens and compliance costs. A day prior, the EPA moved forward in rewriting the CPP, promulgated under Section 111 of the Clean Air Act (42 U.S.C. 7411), by asking for public comments on a replacement rule by February 26, 2018 (82 FR 61507). Key to former President Barack Obama’s climate mitigation plan, the CPP was challenged by 27 states and a number of other parties, and the Supreme Court issued a stay on implementation of the CPP on February 9, 2016. Following President Trump’s executive order (13783) on energy independence, the EPA conducted a review of the CPP, concluding that "suspension, revision, or rescission of [the CPP] may be appropriate” based on the agency's reinterpretation of the statutory provisions underlying the CPP, and then published a Federal Register notice proposing to repeal the CPP on October 10, 2017. The December 28 advanced notice of proposed rulemaking solicits information on systems of emission reduction for the agency to consider in developing a future rule intended to reduce carbon dioxide emissions from existing fossil-fueled electric utility generating units.

Sources: Bureau of Land Management, Bureau of Safety and Environmental Enforcement, Environmental Protection Agency, Office of the Federal Register, The White House