January 25, 2017

Trump Administration Freezes Regulations, Hiring, and US EPA Grants/Contracts; Issues Executive Order on Pipeline and Project Reviews

Administration Freezes

On January 20, 2017, President Trump’s Chief of Staff, Reince Priebus, released a memorandum to all heads of Executive Departments and agencies ordering them to halt or freeze all pending regulations for 60 days in order to ensure that the President’s appointees or designees have the opportunity to review any new or pending regulations.

Regulations that have been sent to the Office of the Federal Register (OFR) but have not been published are immediately withdrawn from the OFR for review and approval by the President’s appointees or designees. Regulations that have been published in the OFR but have not taken effect are temporarily postponed for 60 days pending review and approval. Regulations that affect critical health, safety, financial, or national security matters are excluded from the freeze, as determined by the Director of the Office of Management and Budget. A list of 30 U.S. Environmental Protection Agency (EPA) regulations which are immediately subject to the freeze can be found here.

The purpose of the regulatory freeze is to allow President Trump’s administration to review pending regulations and guidance. The freeze does not necessarily ensure the regulation’s ultimate demise.

President Trump also issued an executive action freezing hiring for the federal workforce (with exemptions for the military and positions of national security or public safety). He has also directed the U.S. EPA to freeze issuing grants and contracts which would impact states and companies that rely upon them. The U.S. EPA’s grants are used to support infrastructure and other environmental activities. The U.S. EPA’s contracts are currently valued at over $6 billion and are wide-reaching.

Pipelines and Project Reviews

On January 24, 2017, President Trump issued four memoranda and an executive order concerning the construction of pipeline projects and review of infrastructure projects. The presidential memoranda set forth the following directives:

1. Construction of Keystone XL Pipeline: Invites TransCanada Keystone Pipeline, L.P. to promptly re-submit its application for a cross-border permit and directs the State Department to issue a decision within 60 days.

2. Construction of the Dakota Access Pipeline: Directs the Secretary of the Army to instruct the Assistant Secretary of the Army for Civil Works and U.S. Army Corps of Engineers to consider whether to withdraw the Obama administration’s Notice of Intent to prepare a new environmental impact statement on the project.

3. Construction of American Pipelines: Directs the Secretary of Commerce to develop a plan for all new, repaired, and expanded pipelines in the U.S. to use steel and other materials made in the
U.S., to the maximum extent permitted by law. The Secretary of Commerce shall submit the plan to the President within 180 days.

4. Streamlining Permitting and Reducing Regulatory Burden for Domestic Manufacturing: Directs departments and agencies to expedite reviews and approvals for proposals to construct or expand manufacturing facilities through reductions in regulatory burdens affecting domestic manufacturing. The Secretary of Commerce shall submit a report to the President setting forth a plan to streamline the federal permitting process and reduce regulatory burdens for domestic manufacturers.

The President’s Executive Order, “Expediting Environmental Review and Approvals for High Priority Infrastructure Projects”, streamlines and expedites environmental reviews and approvals for all infrastructure projects, especially projects that are a high priority for the U.S., such as improving the electrical grid and telecommunications systems and upgrading ports, airports, pipelines, bridges, and highways. The Chairman of the White House Council on Environmental Quality shall decide whether an infrastructure project qualifies as a “high priority” project within 30 days of a request. The Executive Order also calls for the relevant agency heads to establish expedited procedures and deadline for environmental reviews and approvals for high priority projects.

Related People

David Crass
Partner
dacrass@michaelbest.com
T 608.283.2267

Todd Palmer
Partner
tepalmer@michaelbest.com
T 608.283.4432

Leah Ziemba
Partner
lhziemba@michaelbest.com
T 608.283.4420