

April 10, 2025

President Trump Issues Executive Order on Protecting American Energy from State Overreach

The Order Directs the Attorney General to Identify and Stop the Enforcement of “Illegal” State Laws That Burden Domestic Energy Production

SUMMARY

On April 8, 2025, President Trump signed an Executive Order titled “[Protecting American Energy From State Overreach](#)” (the “Order”). The Order is aimed at “securing America’s energy dominance by removing unlawful and burdensome state-level impediments to domestic energy production.”¹ The Order requires the Attorney General to:

- in consultation with the heads of appropriate executive departments and agencies, identify all State and local laws, regulations, causes of action, policies, and practices (collectively, “State laws”) “burdening the identification, development, siting, production, or use of domestic energy resources that are or may be unconstitutional, preempted by Federal law, or otherwise unenforceable”;
- prioritize the identification of any such State laws purporting to “address ‘climate change’ or involving ‘environmental, social, and governance’ initiatives, ‘environmental justice,’ carbon or ‘greenhouse gas’ emissions, and funds to collect carbon penalties or carbon taxes”;
- expeditiously take all appropriate action to stop the enforcement of the identified State laws that the Attorney General determines to be illegal, and, by June 7, 2025, submit a report to the President regarding such actions; and
- recommend any “additional Presidential or legislative action necessary to stop the enforcement” of the identified State laws that the Attorney General determines to be illegal or “otherwise fulfill the purpose” of the Order.

The Order reiterates the focus on American “energy dominance” expressed in the Trump Administration’s January 2025 executive orders.² The Order states that “American energy dominance is threatened when

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State and local governments seek to regulate energy beyond their constitutional or statutory authorities” and provides specific examples of State laws that “are fundamentally irreconcilable with [the Trump] Administration’s objective to unleash American energy.” These examples include a wide range of State and local laws, regulations, programs and actions, including laws recently adopted in New York and Vermont requiring certain energy companies to pay into a “climate superfund”,³ California’s “cap and trade” program, as well as State lawsuits against energy companies for “supposed ‘climate change’ harm under nuisance or other tort regimes that could result in crippling damages.”

TAKEAWAYS

While it remains to be seen how the Attorney General will implement the Order, the Order seems to indicate that the Trump Administration is considering legal challenges to overturn State laws that may be viewed as burdening domestic energy production. The Order identifies a few potential legal arguments that may be used in these legal challenges, including that these State laws “undermine Federalism by projecting the regulatory preferences of a few States into all States,” “dictate interstate and international disputes over air, water, and natural resources,” “unduly discriminate against out-of-State businesses,” “contravene the equality of States,” and “retroactively impose arbitrary and excessive fines without legitimate justification.” Some of these arguments have already been raised in pending private litigation challenging certain climate-related State laws, including the Vermont “climate superfund” law and California’s climate disclosure laws.⁴

The Order also contemplates the possibility of further Presidential actions as well as legislative actions to further the purpose of the Order. Such further actions could affect the federal preemption and other analysis regarding the legality of the relevant State laws.

Although the Order is focused on the laws and actions of State and local governments, private sector companies should monitor the Attorney General’s actions implementing the Order, as those actions may create uncertainties on the legality of a wide range of climate change- and ESG-related State laws, many of which apply to or have implications for private sector companies.

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ENDNOTES

- ¹ See White House, Fact Sheet: President Donald J. Trump Protects American Energy from State Overreach (April 8, 2025), *available at* <https://www.whitehouse.gov/fact-sheets/2025/04/fact-sheet-president-donald-j-trump-protects-american-energy-from-state-overreach/>.
- ² For further information on the Trump Administration’s January 2025 executive orders regarding American energy, see our publication: “Energy Transition Year in Review and Look Ahead” (January 29, 2025), *available at* [https://www.sullcrom.com/SullivanCromwell/ Assets/PDFs/Memos/Energy-Transition-Year-Review-Look-Ahead.pdf](https://www.sullcrom.com/SullivanCromwell/Assets/PDFs/Memos/Energy-Transition-Year-Review-Look-Ahead.pdf).
- ³ For further information on the “climate superfund” laws, see our publication: “New York Enacts Law Fining Companies for Past Greenhouse Gas Emissions” (December 30, 2024), *available at* [https://www.sullcrom.com/SullivanCromwell/ Assets/PDFs/Memos/NY-Law-Fines-Energy-Companies-75-billion-Emissions.pdf](https://www.sullcrom.com/SullivanCromwell/Assets/PDFs/Memos/NY-Law-Fines-Energy-Companies-75-billion-Emissions.pdf).
- ⁴ See, e.g., *Chamber v. Moore*, 2:24-cv-01513 (D. Vt. Dec. 30, 2024); and *Chamber v. California Air Resources Board et al.*, 2:24-cv-00801 (C.D. Cal. Jan 30, 2024).

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