Wind Energy Development/Federal Moratorium: 17 States File Judicial Action Challenging Trump Administration Directive



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17 State Attorney Generals filed a Complaint for Declaratory and Injunctive Relief ("Complaint") in the United States District Court for the District of Massachusetts against the Trump Administration (including various federal agencies) challenging a Presidential Memorandum ("Memorandum") the result of which is stated to:

…categorically and indefinitely halted all federal approvals necessary for the development of offshore- and onshore-wind energy, pending an amorphous, redundant, extra-statutory, and multi-agency review of unknown duration.

The Memorandum is titled:

Temporary Withdrawal of All Areas on the Outer Continental Shelf from Offshore Wind Leasing and Review of the Federal Government's Leasing and Permitting Practices for Wind Projects, 90 Fed. Reg. 8363 (Jan. 29, 2025).

The Complaint challenges Section 2(a) of the Memorandum's halt of federal approvals for wind-energy projects.

The Complaint quotes from the Memorandum language which provides that the relevant federal agencies:

...shall not issue new or renewed approvals, rights of way, permits, leases, or loans for onshore or offshore wind projects pending the completion of a comprehensive assessment and review of Federal wind leasing and permitting practices.

The Complaint argues that this required review is:

- Grounded in no statute.
- Duplicative of already required reviews.

The Complaint further alleges that implementation of the Memorandum is:

- Arbitrary and Capricious under the Administrative Procedure Act.
- Issued with no reasoned explanation for its categorical and indefinite halt of wind-energy development.

- No detailed justification is offered to explain the change in longstanding federal policy supporting the development of wind energy.
- Does not take into account what is described as serious reliance interests the States have developed as a result of the federal government's long-running support for and approvals of wind-energy development.
- Is internally inconsistent providing that the United States must provide reliable, affordable energy to its residents as it "hobbles a growing source of that energy".
- Contrary to statutory authority under various federal statutes which include:
- The Clean Air Act.
- The Endangered Species Act.
- The Outer Continental Shelf Lands Act (OCSLA).
- Ultra vires because no act of Congress authorizes the President or federal agencies to categorically and indefinitely halt approvals of wind-energy projects pending an extra-statutory review process.

The States ask that the Court declare the Memorandum unlawful and enjoin the Federal Defendants from implementing it to halt the development of wind-energy projects.

The States joining the Complaint include:

- STATE OF NEW YORK.
- COMMONWEALTH OF MASSACHUSETTS;.
- STATE OF ARIZONA.
- STATE OF CALIFORNIA.
- STATE OF COLORADO.
- STATE OF CONNECTICUT.
- STATE OF DELAWARE.
- DISTRICT OF COLUMBIA.
- STATE OF ILLINOIS.
- STATE OF MAINE.
- STATE OF MARYLAND.
- THE PEOPLE OF THE STATE OF MICHIGAN.
- STATE OF MINNESOTA.
- STATE OF NEW JERSEY.
- STATE OF NEW MEXICO.
- STATE OF OREGON.
- STATE OF RHODE ISLAND.
- STATE OF WASHINGTON.

A copy of the Complaint and the Memorandum can be downloaded here.