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General Policy

Practitioner Insights: Evaluating Trump's Environmental Policy—Nine Months In



BY TERRY F. YOSIE

After nine months of much sound and some intense fury, the Trump administration continues its efforts to implement an environmental agenda based on major 2016 campaign themes while also having to address the more practical realities of governance. To paraphrase the late New York City Mayor Ed Koch, how is the Trump administration doing so far? After nine months in office, five major trends are discernible at this writing.

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Trump appointees know what they're against, but not what they're for Battle-tested through previous service in state and local governments, as congressional staff, in business associations, law firms, and politically conservative think tanks, many Trump appointed officials have a long list of policies, programs, and voluntary initiatives they have wished to repeal or rollback for many years. Their rationale is these environmental activities are inconsistent with the role of the federal government and, in some cases, any level of government.

In certain instances, the agenda of incoming officials also reflects their ties to specific industries, including coal, chemicals, oil and gas, that have sought to reduce their regulatory burdens. The "repeal and rollback agenda" began with an extensive set of regulations for Congress to override, executive orders, and other decisions to cancel or re-propose some existing rules, coupled with proposed budget and staff reductions and other measures designed to shrink the administrative state.

Beyond this short-term repeal and rollback agenda, there's not much else on offer to the American people. Generally, one does not hear Trump officials discuss plans to expand clean air and clean water; protect vulnerable members of the population from pollution aggressively enforce current statutes; or identify new areas where regulation, economic incentives, or the convening capacity of government can be applied to improve the quality of air, land, and water resources in creative and cost-effective ways.

Instead, officials at the Environmental Protection Agency and other agencies stress the importance of re-

ducing the size of government and implementing traditional statuses (“back to the basics” is a clarion call) with less resources and fewer staff. The constant references to federalism and the importance of state environmental authority are undermined by proposed budget reductions. There also is an unwillingness to discuss certain topics such as the relationship of climate change to hurricanes Harvey and Irma.

The administration has advanced some of its environmental goals, but they are reversible By early July, EPA Administrator Scott Pruitt sought to repeal or significantly alter approximately 30 agency rulemakings. These and other proposals have not involved major statutory modifications, however. In fact, an effort to achieve congressional repeal of an Obama rulemaking (from the Department of Interior) to abolish methane flaring from oil and gas operations on federal lands failed to achieve the required number of votes on the Senate floor. Efforts to withdraw the 2015 Waters of the U.S. rulemaking are snagged in a Supreme Court decision not to pause implementation of the Obama rule even while EPA attempts to rescind and re-propose it.

The president’s decision to withdraw from the Paris climate accord and follow-up efforts to withdraw the previous administration’s Clean Power Plan are being met with a flurry of opposition from environmental groups, many state and local governments, and voluntary business initiatives to reduce greenhouse gases. And Administrator Pruitt reversed an earlier decision not to implement the national ambient air quality standard for ozone following a lawsuit filed by 16 Democratic attorneys general.

Other actions the administration has taken—removing information from government websites, reorganizing government agencies, and reducing budgets and staff—also can be reversed over time. So far, Congress has been reluctant to downsize budgets for environmental agencies such as EPA by approving funds for both fiscal year 2017 and the beginning of FY 2018 close to Obama funding levels.

A vigorous anti-science agenda is being implemented Donald Trump is the first president since Franklin Roosevelt not to appoint a science advisor. The administration’s overt hostility toward the scientific community’s values, principles, practices, and role in decision-making is widespread and unprecedented. This reflects in part an ideological approach to science held by administration officials and their external allies that exists outside the mainstream of scientific community consensus on topics such as risk assessment, stratospheric ozone depletion, second hand smoke, fine particles, and climate change.

The administration’s advocates of “sound science” also adhere to a view that science-based decisions must be based on facts rather than estimates of the probability of health and environmental effects. Because such “facts” are relatively rare, even fewer regulations should be developed or maintained, they say. Such reasoning is contrary to virtually every major public health or environmental policy decision made during the past five decades as both scientists and policymakers recognized that waiting for actual documentation of facts pertaining to cancer, birth defects, asthma, and other impacts would require death or debilitating illnesses to provide the confirmatory evidence—an unethical position *sui generis*.

Additional manifestations of the administration’s anti-science agenda include: the appointment of people with no scientific literacy to administer scientific programs, the selection of political appointees to review and approve eligibility for science grants, eliminating “climate change” as a criterion for grant eligibility, canceling a National Research Council study evaluating the health effects of common mining operations in Appalachia, the transfer or harassment of professional scientists in agencies such as the Interior Department, and the purging of scientific advisory panels.

This last set of actions involves changing the criteria for advisory panel appointments from scientific merit to representation of affected industries. Part of the administration’s focus on advisory panels derives from its belief that currently serving scientists reflected an Obama administration point of view on science and environmental policies. In fact, 47 of the 53 scientists and engineers serving on the EPA’s Science Advisory Board and Clean Air Scientific Advisory Committee at the beginning of the Trump administration were appointed by previous administrations of both parties and have advised numerous agencies.

The business community separates itself from Trump’s environmental agenda Major international corporations have much at stake in environmental policy design and implementation. Each year, corporations invest hundreds of millions of dollars in research to develop products and must submit their research data to federal agencies for review as part of product approval and marketing requirements. Widespread changes that destabilize the scientific principles and assessment processes utilized in existing regulatory reviews can lead to the loss of significant research investments.

Moreover, further weakening of public confidence of protections from health and environmental risks could undermine acceptance of company products in the marketplace. As a practical matter, major companies have seen this movie before during the 1981–1982 period of the Reagan administration when a deregulatory agenda led to significant controversies and heightened public concerns that ultimately landed at the private sector’s door.

Increasingly, CEOs are directly participating in environmental policy debates, and their perspectives diverge from Trump administration positions on such issues as: remaining in the Paris Agreement; phase out of stratospheric ozone depleting chemicals; carbon taxes, calculating the social cost of carbon or other specific policies that would limit greenhouse gases; endorsing sustainable development goals and practices; energy efficiency; and public-private sector collaboration on key voluntary initiatives such as Energy Star that the administration proposed to defund.

While individual business associations continue to dance to the music of the administration’s environmental agenda, they increasingly find that many of their most important member companies are following a different tune composed by their employees, customers, and the broader stakeholder community.

The environmental community plays defense in response to Trump’s policy agenda While the public debate expands over the administration’s attempts to refocus or eliminate public health and environmental policies and programs, the broad-based network of organizations that espouse environmental protection has

converged on a set of anti-Trump message points and resistance to administration initiatives. Work continues to be done to organize marches, submit court briefings to stymie administration policies, prepare position papers on projected impacts of budget and personnel reductions, and estimate the public health and environmental consequences of proposed repeal and rollback decisions. These efforts will slow and, in some cases, redirect some of the administration's de-regulatory proposals. They are generally defensive in nature, however, and do not integrate the environmental conversation with other public priorities, and generally reflect Washington insider tactics and language that most citizens do not follow or comprehend.

The degree to which the Trump administration or its critics prevail on environmental policy depends heavily on their ability to develop a more strategically focused agenda. Such an agenda would more directly connect the goal of environmental protection to innovation and job creation, expanded educational opportunities, an

improved quality of life, and communication of greater confidence in the future and the ability to solve important problems. Achieving such linkage depends not only on science and environmental advocacy but also must reflect cultural, economic, and geographic analyses that shape the public's thinking.

In conclusion, what remains to be seen is whether administration policymakers—having given their repeal and rollback agenda their best shot—can remain on their island if the waters of a more concerned public opinion start to rise. Alternatively, an anti-Trump agenda by itself is less likely to stir the public into broad-based and consistent engagement. Nine months in, the administration's environmental proposals meet with increased resistance even while its critics have yet to develop an effective game plan to outflank it.

The opinions expressed here do not represent those of Bloomberg BNA, which welcomes other points of view.