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Federal Court Halts Wind and Solar Permitting Freeze

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Key Takeaways

- A federal court has temporarily blocked five Trump Administration directives that had effectively frozen federal permitting for wind and solar projects since mid-2025.
- Relief is currently limited to members of the nine named plaintiff trade associations. Developers outside these organizations are not protected.
- Covered developers should act now. Federal agencies may be slow to implement the ruling without Washington guidance—proactive outreach and careful documentation of membership in the named plaintiff organizations will be essential.
- This injunction is preliminary and could be appealed. Developers should use this window to advance projects quickly rather than assume the ruling is permanent.
- This injunction does not resolve all wind and solar federal restrictions: The Wind Memo is on appeal before the First Circuit Court of Appeals.

Overview

On April 21, 2026, Chief Judge Denise J. Casper of the United States District Court for the District of Massachusetts issued a significant preliminary injunction blocking the Trump Administration from enforcing five agency actions that had imposed sweeping restrictions on federal permitting for wind and solar energy projects. The ruling is a major development for renewable energy developers with projects on federal lands or in federal waters and may allow previously stalled permitting actions to move forward, at least temporarily, without the extraordinary Secretary-level review requirements that had been imposed since mid-2025.

Background

Beginning in January 2025, the Trump Administration issued a series of executive orders and agency directives targeting wind and solar energy development on federal lands and in federal waters. Among these executive actions was the "Wind Memo," issued on January 20, 2025, directing federal agencies to suspend issuing all new permits, leases and other authorizations needed to develop and operate wind energy projects, both onshore and offshore, pending a wide-ranging assessment of federal wind leasing and permitting practices.

The Wind Memo and related executive actions culminated in five additional agency directives that collectively created significant obstacles to obtaining federal approvals for renewable energy projects:

1. **DOI Review Procedures Memo (July 15, 2025):** Required all Department of Interior agency actions related to wind and solar energy, including BLM rights-of-way, Bureau of Ocean Energy Management (BOEM) Construction and Operations Plan (COP) approvals, and ESA consultations, to undergo a three-tiered internal review process culminating in approval by the Secretary of the Interior before any action could proceed.
2. **Wind and Solar IPaC Ban (July 2025):** Barred wind and solar projects from using the U.S. Fish & Wildlife Service's Information for Planning and Consultation (IPaC) website (a critical tool for ESA Section 7 consultations) until completion of the Secretary-level review process.
3. **DOI Land Order (Secretary Order No. 3438, § 4, Aug. 1, 2025):** Directed DOI to approve only those energy projects with the highest “capacity density” (measured as nameplate capacity multiplied by capacity factor, divided by total project acres) compared to alternatives, which is a standard that effectively disqualified most wind and solar projects in favor of nuclear, gas, and coal.
4. **Corps' Memo (Sept. 18, 2025):** Directed the U.S. Army Corps of Engineers to deprioritize processing of CWA Section 404 and Rivers and Harbors Act Section 10 permit applications for low-capacity-density projects (i.e., wind and solar) in favor of high-capacity-density projects. (See Holland & Hart's update.)
5. **Zerzan M-Opinion (May 1, 2025):** Withdrew the prior administration's interpretation of Section 8(p)(4) of the Outer Continental Shelf Lands Act (OCSLA) and reinstated a more restrictive interpretation requiring DOI to prevent any offshore activity causing more than “de minimis” interference with other OCS uses, which effectively created a near-prohibition on new offshore wind COP approvals and requiring re-evaluation of previously approved COPs.

The Court's Ruling

A coalition of regional renewable energy trade associations, including Interwest Energy Alliance, Renewable Northwest, RENEW Northeast, the Southern Renewable Energy Association, the Mid-Atlantic Renewable Energy Coalition Action, the Alliance for Clean Energy New York, the Clean Grid Alliance, the Carolinas Clean Energy Business Association, and the Green Energy Consumers Alliance filed suit in December 2025 challenging all five agency actions under the Administrative Procedure Act (APA). After full briefing and oral argument, the Court granted the plaintiffs' motion for a preliminary injunction as to all five agency actions. The Court's key rulings are summarized below.

1. All Five Agency Actions Are Final, Reviewable Agency Actions

The Court rejected the government's argument that the challenged directives were merely internal procedural guidance not subject to APA review. The Court found that each action:

(1) marked the consummation of the agency's decision-making process; and

(2) gave rise to direct and appreciable legal consequences for wind and solar developers.

The Court relied on a well-developed body of case law holding that agency-imposed suspensions, moratoria, and binding guidance documents constitute final agency action subject to judicial review.

2. Plaintiffs Are Likely to Succeed on the Merits

The Court found that plaintiffs demonstrated a likelihood of success on their APA claims as to each of the five agency actions:

- **DOI Review Procedures Memo:** The Court found the memo is likely arbitrary and capricious because it: (a) provided no meaningful explanation beyond a bare reference to executive orders; (b) failed to justify the significant departure from prior permitting procedures; and (c) entirely failed to consider the serious reliance interests of wind and solar developers who had invested hundreds of millions of dollars in projects based on prior permitting procedures.
- **Wind and Solar IPaC Ban:** The Court found the ban was likely arbitrary and capricious because the Fish & Wildlife Service provided no explanation for why wind and solar projects (and only wind and solar projects) should be barred from accessing a publicly available database and failed to consider developers' reliance interests.
- **DOI Land Order:** While the Court declined to find the order arbitrary and capricious at this stage (finding instead that DOI's capacity density data provided a rational basis for the policy change), the Court found that plaintiffs were likely to succeed on their claim that the order is contrary to law. Specifically, the Court held that the order likely violates both OCSLA Section 8(p)(4) (which requires balancing twelve statutory criteria, not just capacity density) and Section 1702(c) of the Federal Land Policy and Management Act (which requires BLM to balance multiple competing uses of federal land, not simply maximize energy output per acre).
- **Corps' Memo:** The Court found the memo was likely arbitrary and capricious because the Corps offered only two data points to justify a sweeping change in permitting prioritization, failed to consider all relevant data, and failed to account for the reliance interests of low-capacity-density project developers.
- **Zerzan M-Opinion:** The Court found the M-Opinion was likely both arbitrary and capricious (for failing to consider the serious reliance

interests of offshore wind developers who had obtained COP approvals under the prior interpretation) and contrary to law (for the same reason as the DOI Land Order, since it effectively reduces OCSLA's twelve-factor balancing test to a single criterion).

3. Irreparable Harm, Balance of Equities, and Public Interest

The Court found that plaintiffs demonstrated irreparable harm because:

(a) the economic losses resulting from permitting delays and denials are not recoverable in an APA suit due to the government's sovereign immunity; and

(b) developers face imminent, concrete economic injuries including sunk costs, lost revenues, contract penalties, and project cancellations. The Court also found that the balance of equities and public interest favored the injunction, noting the public's interest in reliable, affordable energy and in ensuring that government agencies follow the law.

4. Scope of Relief

Consistent with the Supreme Court's recent decision in *Trump v. CASA, Inc.*, 606 U.S. 831 (2025), the Court declined to issue a universal nationwide injunction. Instead, the injunction applies only to each of the entity plaintiffs and—for all plaintiffs except the Green Energy Consumers Alliance, which relied on its own organizational standing rather than the standing of its members—also to all members of each entity plaintiff.

What This Means for Your Projects

If you are a member of one of the plaintiff organizations, the injunction may have immediate, practical significance for your pending federal permit applications and approvals:

- **BLM Rights-of-Way:** BLM should now be able to process right-of-way grants, amendments, and assignments for wind and solar projects without routing them through the Secretary's office.
- **BOEM COP Approvals:** BOEM should be able to resume review and approval of offshore wind COPs without the three-tiered Secretary review process and without applying the Zerzan M-Opinion's restrictive interpretation of OCSLA Section 8(p)(4).
- **ESA Consultations:** Wind and solar developers should be able to resume use of the IPaC website for ESA Section 7 consultations.
- **Corps Permits:** The Corps should process CWA Section 404 and RHA Section 10 permit applications for wind and solar projects on an equal footing with other energy projects, without deprioritization based on capacity density.
- **NEPA Reviews:** The Department of the Interior should no longer be able to use capacity density as a dispositive factor in NEPA alternatives analysis to deny permits for wind and solar projects.

If you are not currently a member of one of the plaintiff organizations,

you are not directly covered by the injunction.

Important Caveats and Next Steps

Developers should be aware of several important limitations and risks:

1. **The injunction is preliminary.** This is not a final judgment. The case will continue to proceed on the merits, and the injunction could be modified or dissolved.
2. **Appeal is possible.** The government may appeal and may seek an emergency stay of the injunction from the First Circuit or the Supreme Court. Developers should not assume the injunction will remain in place indefinitely and should continue to advance their projects as quickly as possible.
3. **Agency implementation may be slow.** Federal field offices may be slow to implement the injunction without guidance from Washington. Developers should proactively notify relevant agencies of the injunction and their membership in covered organizations, and they should document all communications.
4. **The injunction does not address all restrictions.** The injunction does not address the Wind Memo itself (which is the subject of separate litigation, *New York v. Trump*, currently on appeal before the First Circuit), nor does it address all executive orders affecting renewable energy development.
5. **Document your membership.** To benefit from the injunction, you should be prepared to demonstrate your membership in one of the covered organizations. We recommend obtaining written confirmation of your membership status.

Related Litigation

This ruling builds on a December 2025 decision in *New York v. Trump*, 811 F. Supp. 3d 215 (D. Mass. 2025), in which another judge of the District of Massachusetts vacated the Wind Order (Secretary Order No. 3415)—which was issued on January 20, 2025 in response to, and to effectuate, the Wind Memo—as arbitrary and capricious. That decision is currently on appeal before the First Circuit, No. 26-1174.

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