Obama win buys time, but action-packed lame duck looms

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President Obama's victory over Republican Mitt Romney ensures the Interior Department will face no Jan. 20 deadline to close the deal on any signature policy measures.

But while Obama has earned four more years to advance his energy and environmental agenda on public lands, there are a handful of rules, decisions and designations Interior may take up even before he is sworn in for his second term.

For some of those decisions -- including a plan to manage oil shale development in the Rocky Mountain West, a listing decision on the lesser prairie chicken and the finalization of critical habitat for northern spotted owls -- court-ordered deadlines have either passed or are approaching within the month.

David Abelson, an oil shale policy adviser for Western Resource Advocates in Boulder, Colo., said that the administration will miss its deadlines to revise a George W. Bush administration plan governing oil shale, but that he is hopeful yesterday's election will ease the political pressure the president faced, particularly in Colorado.

"There are commitments that are past due," Abelson said, including final revisions to Bush resource management plans that opened roughly 2 million acres in Colorado, Wyoming and Utah to oil shale development and a royalty rate that industry praised but critics argued would fleece local communities.

"Once the election is over, stuff will start to clear," Abelson said yesterday. "We certainly hope oil shale is in that list."

The agency had until May to issue a proposed rule governing oil shale royalties and was supposed to use its "best efforts" to finalize revisions to the Bush program by the end of next month, according to the pair of settlements Interior reached with more than a dozen environmental plaintiffs in early 2011. Both deadlines have been or will be missed.

Deadlines for other decisions, including a final rule governing hydraulic fracturing for oil and gas on public lands and a final management decision for Alaska's National Petroleum Reserve, have been imposed administratively.

Taldi Walter, assistant director of government relations for Audubon, said she expects the Bureau of Land Management to release a final environmental impact statement for the 22.5-million-acre NPR-A by the end of this week, which would trigger a 30-day comment period.

"We expect that the announced plan will provide for a balance of expanded energy development as well as conservation of key areas," Walter said.

Interior Secretary Ken Salazar said the plan would include significant new protections for wildlife and subsistence hunters, but oil backers panned the proposal for scaling back opportunities to drill and potentially hampering a future oil pipeline. The agency is holding an oil and gas lease sale in the reserve today.

"It will be hard to undo," said Robert Dillon, a spokesman for Alaska Sen. Lisa Murkowski (R-Alaska), a leading critic of the plan who is expected to remain ranking member of the Energy and Natural Resources Committee after Democrats retained control of the Senate. "Our hope is to push back."
BLM officials as recently as September had said they also hope to finalize by year’s end a rule to more closely regulate hydraulic fracturing for oil and natural gas on public lands. The draft released in spring would require the disclosure of chemicals injected underground and strengthen reporting standards for well integrity and management of wastewater but was fiercely opposed by the oil and gas industry.

Had Romney won last night’s election, Salazar may have felt more urgency to finalize that rule before leaving office.

"I think right now that's probably the furthest thing from their minds," said Chip Minty, a spokesman for Oklahoma-based Devon Energy Corp. "Compared to the fiscal cliff and the tax issues that are in front of everybody in Washington between now and the end of the year, hydraulic fracturing is a trivial moment."

Other major proposals

The timing of the rollout for some new policies is less clear, including new rules for blowout preventers for oil and gas drilling in the Gulf of Mexico and a separate proposal to strengthen worker safety on rigs.

It is also unclear when, or whether, the agency intends to issue a formal proposal to raise royalty rates on oil production on public lands. Salazar at a House budget hearing early this year indicated the agency is leaning toward bringing the 12.5 percent rate for onshore drilling in line with the 18.75 percent that is generally charged for offshore production.

But the agency has since faced attacks from Republicans who argue oil production is growing significantly faster on state and private lands and that adding new costs would further disadvantage drillers on public land. Incidentally, royalties are most often higher in state and private lands.

The Fish and Wildlife Service in the coming months may also issue a final environmental impact statement and preferred management plan for the 19-million-acre Arctic National Wildlife Refuge, a decision likely to spark fire from Alaska lawmakers and praise from conservationists.

In August 2011, the agency released a draft plan that for the first time preliminarily recommended the refuge's oil-rich coastal plain be designated wilderness, which would effectively bar surface-based drilling in an area believed to contain 10 billion barrels of oil and an abundance of wildlife.

The FWS proposal is symbolic considering only Congress can declare wilderness, but it sparked a backlash nevertheless from Alaska lawmakers and other critics who argued the agency's analysis was illegal under the 1980 Alaska National Interest Lands Conservation Act.

"Alaska Wilderness League is hoping for a wilderness recommendation from the U.S. Fish and Wildlife Service for the Arctic National Wildlife Refuge's Coastal Plain, a land management plan that respects the voices of 90 villages that want protection for vital subsistence and wildlife areas within the National Petroleum Reserve-Alaska, and a final environmental impact statement that protects the wildlife and wilderness values of the Izembek National Wildlife Refuge," said Cindy Shogan, the group's executive director.

Bruce Woods, a spokesman for FWS's Alaska office, said that the ANWR plan is under review at the department level and that there is no firm date for a final proposal, though he expects it will occur "by the end of the year or shortly thereafter."

He said the agency has also finished its National Environmental Policy Act review for its new polar bear "4(d) rule," which had been remanded by a federal judge in Washington, D.C.
The rule, which accompanied the agency's 2008 decision to list the species as "threatened" under the Endangered Species Act, is expected to be proposed in final form in the next month or so, he said.

Perhaps most unclear about Interior's lame-duck agenda is whether the president will designate any national monuments using his authority under the Antiquities Act. President Clinton, for example, waited until his second term to designate the vast majority of his national monuments.

But Senate Energy and Natural Resources Chairman Jeff Bingaman (D-N.M.), who is retiring in January and has been a close ally of the president's, is asking Obama to designate a pair of national monuments in his state. Such a designation, conservationists say, would likely be welcome in New Mexico and serve as a parting gift to the panel chairman.