

As my [prior two posts noted](#), there are substantial legal authorities that allow an executive to suspend or cancel leases for energy development. In the case of [on-shore leases](#), that power might be extremely broad. And with an Administration that appears to use its powers to pursue political grudges and to push the envelope on what is legally permissible, whatever the cost to the long-term interests of the country, that kind of broad power might be a problem.

But as usual, there will be tradeoffs here. There are [benefits to broad executive power to modify, suspend, or cancel leases](#). That power can be used to enforce lease terms against non-compliant lease holders. It can also allow responses to unexpected conflicts, emergencies, or other changes in circumstances that will inevitably exist. For instance, the provisions that allow the executive to suspend and cancel off-shore leases were enacted in response to the Santa Barbara oil spill in order to give the executive the ability to respond to future environmental disasters.

Still, there are some steps that could be useful. For instance, as I noted in the last post, it is possible that the executive still has some residual power to cancel leases without explicit statutory authority. Congress could explicitly eliminate any such residual authority, while still leaving more specific (and thus more constrained) executive power to respond to future emergencies. (It is possible the [SPEED Act already does that](#), but it would be preferable if it was more direct on this point.) Congress could try to define what “unnecessary and undue degradation” is under the Federal Land Policy and Management Act. “Unnecessary and undue degradation” is the standard that authorizes and requires the executive to intervene to protect federal lands, and it is built into the terms of all existing leases (potentially allowing for uncompensated cancellation of those leases). And Congress could take more aggressive steps – but so far, it appears to be wary of doing so. As I’ve posted earlier, one problem with the permit certainty provisions in the SPEED Act is that they retain existing executive authority to cancel leases, [which makes the Act fairly toothless](#).