

Trump Administration Day One Executive Orders: Energy Policy

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Firm Alert

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The Trump administration issued several Executive Orders aimed at significantly altering American energy policy, which are summarized below.

Executive Order: Declaring a National Energy Emergency

Fundamental to President Trump's efforts to stimulate American energy production is his Executive Order **declaring a national energy emergency**. This is the first time that a president has declared a national energy emergency, although regional energy emergencies were declared by President Jimmy Carter in the 1970s due to shortages of fossil fuels. By declaring a national energy emergency, President Trump is allowing federal agencies to use various emergency authorities to facilitate the "identification, leasing, siting, production, transportation, refining, and generation of domestic energy resources." The Order defines "energy" and "energy resources" to include "crude oil, natural gas, lease condensates, natural gas liquids, refined petroleum products, uranium, coal, biofuels, geothermal heat, the kinetic movement of flowing water, and critical minerals."

The Order represents the administration's first step in promoting domestic energy production which, according to the Order, will lower energy prices, create jobs, and strengthen national security. In furtherance of these objectives, the Order directs federal agencies to identify and use all relevant lawful emergency and other authorities to expedite the completion of all authorized and appropriated infrastructure, energy, environmental, and natural resources projects.

Among the more significant provisions in the Order to the regulated community are directives to agencies to evaluate the use of emergency measures in environmental regulations to facilitate and streamline permitting and environmental reviews. Federal agencies must identify and report on planned or potential actions to facilitate energy supply that may be subject to emergency treatment under the regulations and nationwide permits promulgated by the Army Corps of Engineers, such as projects subject to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. The Order provides similar requirements for actions that may require agency consultations under the Endangered Species Act (ESA). Agencies must identify and report on planned or potential actions that may be subject to the ESA and provide a summary report of those actions. Agencies are directed to use, to the maximum extent permissible under applicable law, the ESA regulations on consultations in emergencies.

Additionally, the Secretary of the Interior, acting as Chairman of the Endangered Species Act Committee, must convene the committee not less than quarterly to review and consider applications submitted by any applicant for a permit or license who requests an exemption from the agency consultation obligations imposed by Section 7 of the ESA. To the extent practical, the Secretary of the Interior must ensure an initial determination is made on applications within 20 days of receipt and the submission must be resolved within 140 days of the initial determination.

Executive Order: Unleashing American Energy

President Trump's declaration of an energy emergency dovetails with his Executive Order entitled **Unleashing American Energy**. The Order directs federal agency heads to review all existing agency actions and identify those that unduly burden domestic energy resources and, within 30 days, develop and begin implementing action plans to suspend, revise, or rescind all such actions. It calls for a particular focus on oil, natural gas, coal, hydropower, biofuels, critical mineral,

and nuclear energy resources. The Order also directs agencies to notify the Attorney General of any actions taken to review or suspend, revise or rescind regulations so that (i) notice of the Order and such actions can be provided to any court with jurisdiction over pending litigation in which such actions may be relevant and (ii) a request can be made to the court stay or otherwise delay further litigation, or seek other appropriate relief consistent with the Order.

The Order also focuses on increasing permitting efficiency across agencies, in part by revoking President Carter's 1977 Executive Order 11991 relating to protection and enhancement of environmental quality, which authorized the Council on Environmental Quality (CEQ) to issue mandatory regulations to implement the National Environmental Policy Act (NEPA). The Order requires CEQ to provide guidance on implementing NEPA and to issue a proposed rule rescinding CEQ's current NEPA regulations. It also encourages agencies to eliminate permitting delays in their respective processes by utilizing general permits and permit by rule and authorizes the use of emergency authorities for any project an agency head has determined is essential to the nation's economy or national security. The Director of the National Economic Council (NEC) and the Office of Legislative Affairs are also directed to jointly prepare recommendations to Congress to streamline judicial review of NEPA applications, facilitate permitting, and construct interstate energy transportation and infrastructure.

The Order requires the Environmental Protection Agency (EPA) to issue guidance to address abandoning the social cost of carbon calculations in decision making within 60 days of the Order, and within 30 days of the Order, EPA must submit recommendations on the legality and future applicability of the 2009 Endangerment Finding for greenhouse gases under the Clean Air Act.

Significantly, the Order directs all agencies to pause the disbursement of funds appropriated through the Inflation Reduction Act and the Infrastructure Investment and Jobs Act pending review, including funds for electric vehicle charging stations, and review agency processes, policies, and programs for issuing grants, loans, contracts, or any other financial disbursements of such appropriated funds.

The Order also contains provisions pertaining to liquified natural gas, which lifted a freeze on liquified natural gas exports put in place by President Biden in early 2024. The Order directs the Secretary of Energy to restart reviews of the applications for approvals of liquified natural gas export projects, and reconsider records of decision for proposed deepwater ports for the export of liquified natural gas.

Finally, the Order contains components on mineral dominance, which directs relevant agencies to identify and rescind all agency actions that unduly burden domestic mining and processing of non-fuel minerals. It also provides for geological mapping to focus on unknown mineral deposits, tapping into the potential of uranium, allocating federal funds for critical mineral projects, and requires that policy recommendations pertaining to enhancing mining competition in the United States be submitted by relevant agencies within 60 days of the Order.

Memorandum: 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

The Trump administration's efforts to promote the production of energy from traditional energy sources stand in contrast to President Trump's [Memorandum](#) aimed at curtailing wind energy production by withdrawing the Outer Continental Shelf (OCS) from offshore wind leasing and reviewing all leasing and permitting practices for wind energy projects. The Memorandum temporarily prevents consideration of any area in the OCS for any new or renewed wind energy leasing for the purposes of generation of electricity or any other such use derived from the use of wind. It directs the Secretary of the Interior, in consultation with the Attorney General, to conduct a comprehensive review of the ecological, economic, and environmental necessity of terminating or amending any existing wind energy leases, identify any legal bases for such removal, and submit a report with recommendations to the President. Finally, it directs that no new or renewed approvals, rights of way, permits, leases, or loans for onshore or offshore wind projects be issued pending the completion of a comprehensive assessment and review of federal wind leasing and permitting practices.

Executive Order: Unleashing Alaska's Extraordinary Resource Potential

President Trump also issued an Executive Order entitled [Unleashing Alaska's Extraordinary Resource Potential](#). The Order's more significant provisions include directing agencies to prioritize the development of Alaska's LNG potential, including the permitting of all necessary pipeline and export infrastructure related to the Alaska LNG Project, and to issue permits, right-of-way permits, and easements necessary for the exploration, development, and production of oil and gas from leases within the Arctic National Wildlife Refuge.

As always, Babst Calland attorneys are available to provide guidance on how these actions affect your business. For more information on the actions discussed in this *Alert* or related matters, please contact Ben Clapp at (202) 853-3488 or bclapp@babstcalland.com, Mackenzie Moyer at (412) 394-6678 or mmoyer@babstcalland.com, Alexandra Graf at (412) 394-6438 or agraf@babstcalland.com, or your Babst Calland client relationship attorney.

To view other "Day One" Executive orders issued by the Trump administration affecting energy and environmental policy, please click [here](#).

