

ILLUME

Navigating the Impact of Executive Orders on the Utility Industry

Exclusive Q&A with Van Ness Feldman and ILLUME



Hello!

It's Nice to See You



Welcome & Introductions

Van Ness Feldman Presentation

Question and Answer Session

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People-First Consulting. Advancing Energy, Enhancing Lives.

We work with you to drive bold energy solutions that transform our economy, uplift communities, and enrich lives.

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Meet Our Panelists



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Overview of Trump Administration Executive Actions and Impacts to the Utility Industry

February 14, 2025

Relevant Types of Executive Action

Three Categories of Executive Action

(1) Executive Orders; (2) Executive Memoranda; (3) Presidential Proclamations

Executive Orders

- Signed and published directive from the President that manages operations of the federal government and that has an established procedure for issuance.
- Depending subject and substance, can carry the force of law when consistent with underlying law.
- EOs must cite underlying legal authority and be published in the *Federal Register*.

Executive Memoranda

- Similar to executive orders but differ in process: not required to cite legal authority and do not have to be published in the *Federal Register*.

Presidential Proclamations

- Announcements of public policy from the President that do not usually carry the force of law.
- Also used to communicate information on commemorations and special observances.

Trump Executive Actions To-Date

President Trump has issued a historic number of executive actions to-date:

- Executive Orders: 65*
- Presidential Proclamations: 10*
- Executive Memoranda: 20*

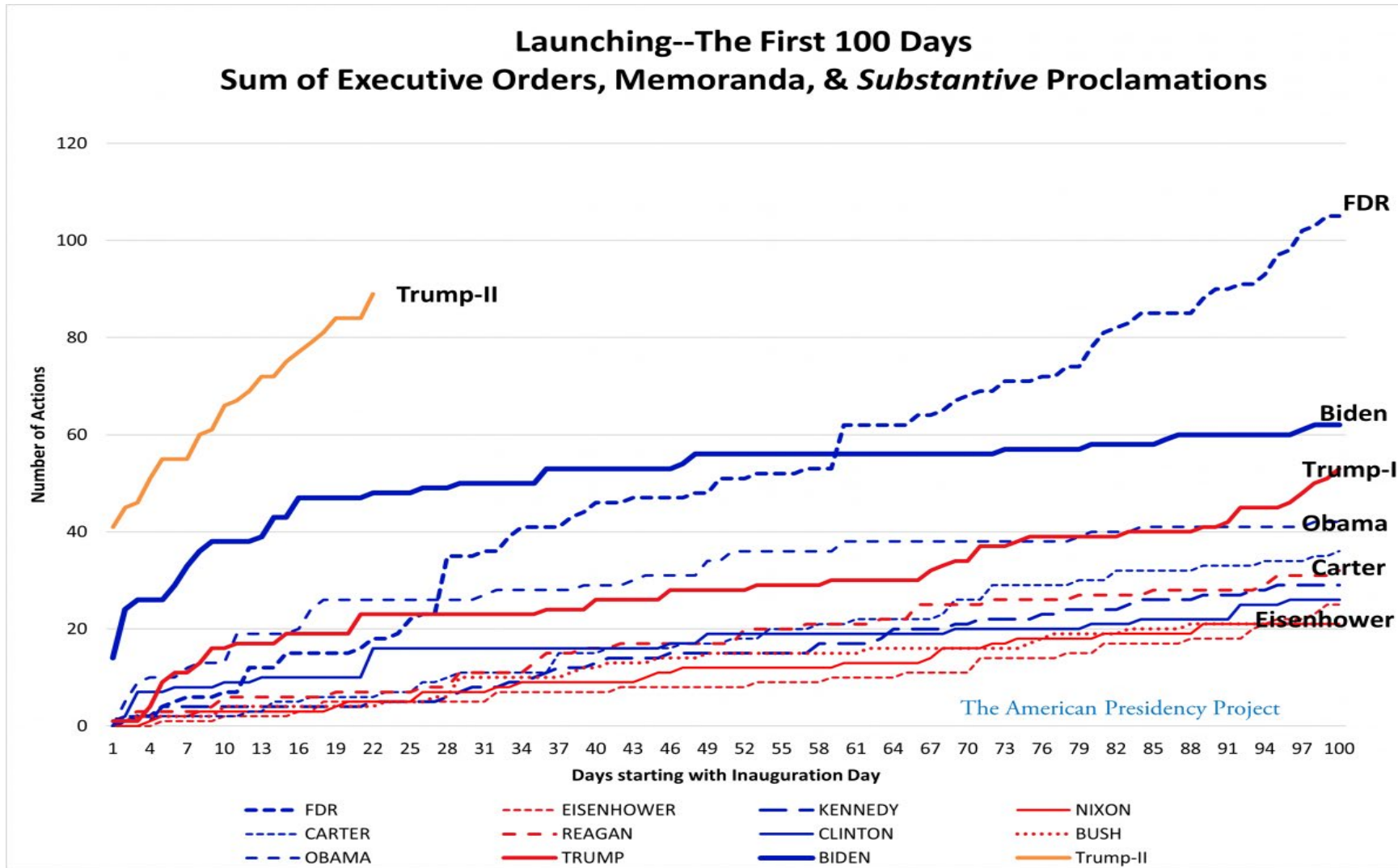
Most Executive Orders ever issued in first 100 days

Most executive actions taken in first 100 days since President Franklin Roosevelt

Note: only 25 days into President Trump's second term

*Unofficial count as of 2/14/25

Presidential Executive Actions Comparison



Executive Order Explainer

BACKGROUND

- **Must be based on Article II authority or congressional delegation**
- **Congress does not have to approve them**
- **Not permanent and can be overturned by consequent administrations**

Executive order: an official document signed by the president declaring government policy



- The purpose of an executive order is to **give instructions to government agencies and departments** about how to execute and enforce legislation
- In recent years executive orders have been **used more broadly to instruct agencies and departments how to operate in certain policy areas**

Checks by other government branches



JUDICIARY



- Courts may declare executive order unconstitutional if it oversteps the executive power granted by law
- Judges may postpone enforcement of executive order until a final judgement has been made

CONGRESS



- Congress may pass legislation revoking or modifying the powers it gave to a president through previous legislation
- If vetoed by the president, Congress can override with 2/3 majority vote in both chambers

PROCESS FOR ISSUING EXECUTIVE ORDERS



Energy Specific Executive Actions

Jan. 20, 2025 White House issued Executive Order [Putting America First In International Environmental Agreements](#) withdrawing from the Paris Climate Accord and other agreements under the U.N. Framework Convention on Climate Change.

Jan. 20, 2025 White House issued Executive Order [Unleashing American Energy](#) establishing the Administration's energy policy agenda: promoting traditional energy production, directing regulatory and permitting reform for such projects and mining projects, rescinding certain Biden Administration EOs, and pausing disbursement of IRA and IIJA funds (stayed by TROs).

Jan. 20, 2025 White House issued Executive Order [Declaring a National Energy Emergency](#) declaring such an emergency and addressing it by utilizing federal emergency authorities to expedite firm power and related energy infrastructure projects.

Jan. 20, 2025 White House issued Executive 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](#) halting the offshore wind leasing process by withdrawing OCS leasing areas and pausing federal permitting, leasing, and loans to onshore and offshore wind projects until a comprehensive assessment is completed.

Jan. 20, 2025 White House issued Executive Order [Unleashing Alaska's Extraordinary Resource Potential](#) directing policy and actions to maximize development and production of traditional energy projects in Alaska, including Alaska LNG.

In Focus: *Unleashing American Energy* EO

Section 2. Policy.

- Establishes federal energy policy: increase production on federal lands and waters; increase domestic minerals mining; promote security through abundant, reliable energy; and end the EV mandate, among other priorities.

Section 3. Review of Agency Actions that Burden Development.

- Directs review of all agency rules, actions, and funding that burden domestic energy production or are inconsistent with the order.

Section 4. Revoking Biden-Era EOs.

- Rescinds numerous Biden energy and environmental EOs and directs agency agreements or actions made pursuant to them to be terminated to the extent legally permissible.

Section 5. Permitting Efficiency.

- Rescinds Carter Administration EO that generally established CEQ's authority for promulgating NEPA regulations and directs agencies to promote expediting permitting approvals.

Section 6. GHG Emission Policy Changes.

- Directs agencies to only consider environmental requirements mandated by law in permitting and rulemakings, and seeks to remove social cost of GHG emissions from federal environmental analyses.

Section 7. “Terminating the Green New Deal”—Pause and Review of IIJA and IRA Disbursements (temporarily stayed pending litigation**)**

- Pauses all disbursements of IRA and IIJA funds and requires review of such funds to ensure consistency with the policies outlined in Section 2 of order.

Section 8. LNG Exports.

- Ends Biden Administration pause on LNG exports and directs expedited processing of certain deepwater port license applications.

Section 9. Critical Minerals.

- Requires agencies to rescind and revise actions that unduly burden domestic mining and processing of critical minerals.

Unleashing American Energy EO

THE WHITE HOUSE

recommendations to the Director of OMB on the legality and continuing applicability of the Administrator's findings, "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act," Final Rule, 74 FR 66496 (December 15, 2009).

“Sec. 7. Terminating the Green New Deal. (a) All agencies shall immediately pause the disbursement of funds appropriated through the Inflation Reduction Act of 2022 (Public Law 117-169) or the Infrastructure Investment and Jobs Act (Public Law 117-58). . . .”

available through the National Electric Vehicle Infrastructure Formula Program and the Charging and Fueling Infrastructure Discretionary Grant Program, and shall review their processes, policies, and programs for issuing grants, loans, contracts, or any other financial disbursements of such appropriated funds for consistency with the law and the policy outlined in section 2 of this order. Within 90 days of the date

In Focus: *Declaring a National Energy Emergency* EO

Section 1. Declaring an Emergency.

- “The United States’ insufficient energy production, transportation, refining, and generation constitutes an unusual and extraordinary threat to our Nation’s economy, national security, and foreign policy. In light of these findings, I hereby declare a national emergency.”

Section 2. Emergency Approvals.

- Directs agency heads to utilize any lawful emergency authority to promote the production of domestic energy resources.

Section 3. Expediting Energy Infrastructure.

- Requires agencies to utilize all lawful emergency authorities to expedite completion of authorized and appropriated energy and energy infrastructure projects.

[...]

Section 8. Definitions—Types of Energy Resources Covered.

- “The term ‘energy’ or ‘energy resources’ means 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...”

In Focus: Federal Offshore and Onshore Wind Policy Memorandum

Section 1. Temporary Withdrawal of Offshore Leasing Areas.

- All OCS wind leasing areas are withdrawn until the memo is revoked.
- Any new or renewed offshore wind leasing for any purpose is halted.
- Rights under existing leases are maintained (for now).
- Directs ecological, economic, and environmental review for terminating or amending existing leases if legally permissible.

Section 2. Temporary Cessation and Review of Onshore and Offshore Federal Wind Leasing and Permitting Practices.

- “In light of various alleged legal deficiencies underlying the Federal Government’s leasing and permitting of onshore and offshore wind projects...”
- Relevant agencies ordered not to issue new or renewed approvals, ROWs, permits, leases, or loans for onshore and offshore wind projects.
- Temporary pause is in effect until a comprehensive assessment of wind leasing and permitting practices is completed. No timeline is given for the assessment.
- Assessment must consider environmental impacts on wildlife and economic impacts of wind’s “intermittent generation.”

Federal Funding Pause: OMB Memo M-25-13



THE DIRECTOR

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

January 27, 2025

M-25-13

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Matthew J. Vaeth, Acting Director, Office of Management and Budget 

SUBJECT: Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs

“Federal agencies **must temporarily pause** all activities related to [the] obligation or disbursement of all Federal financial assistance, and other relevant agency acti[vities] that may be implicated by the executive orders....”

Federal Funding Pause Timeline

Jan. 27, 2025 OMB issued [Memorandum M-25-13](#) establishing near total federal funding freeze.

Jan. 28, 2025 OMB issued [Instructions for Federal Financial Assistance Program Analysis in Support of M-25-13](#) which listed approximately 2,600 federal programs for review and included 14 clarifying and policy questions to be answered regarding those programs.

Jan. 28, 2025 OMB issued [Q&A Regarding Memorandum M-25-13](#) clarifying only programs implicated by Trump EOs (e.g., *Unleashing American Energy*) are subject to the freeze.

Jan. 28, 2025 Advocacy groups representing nonprofit orgs, public health professionals, and small businesses [sued](#) OMB in DC District Court seeking injunctive relief halting implementation of Memorandum M-25-13.

Jan. 28, 2025 Twenty-two states and D.C. [sued](#) President Trump, OMB, and other agencies in Rhode Island District Court seeking injunctive relief halting implementation of Memorandum M-25-13.

Jan. 29, 2025 OMB Memorandum M-25-13 *rescinded* by [Memorandum M-25-14](#).

Legal Challenges to Federal Funding Pause

Jan. 31, 2025 Judge for RI District Court [grants states' request for TRO](#) (now extended for good cause through Feb. 20.)

- (1) Prohibiting defendant agencies from “paus[ing], freez[ing], imped[ing], block[ing], cancel[ing], or terminat[ing] [their] compliance with awards and obligations to provide federal financial assistance to the [plaintiff] States.”
- (2) Prohibiting reissuance or other actions giving effect to the Memorandum, *including WH Press Secretaries Jan. 29 statement*.
- **Hearing on MOTION for Preliminary Injunction scheduled for Friday, Feb. 21.**

Feb. 3, 2025 Judge for DC District Court [issues 14-day TRO](#) (effective until otherwise ordered)

- (1) Enjoining Defendants from implementing Memorandum M-25-13.
- (2) Ordering Defendants to provide written notice of TRO to agencies and instructing them not to take steps to implement Memorandum and to release any disbursements on open awards that were paused.
- **Motion Hearing for Preliminary Injunction set for Thursday, Feb. 20.**

Feb. 10, 2025 Defendants in Rhode Island District Court case filed appeal of TRO with Court of Appeals for the First Circuit.

Feb. 11, 2025 Defendants' appeal to First Circuit (from RI district court) denied.

Other, Non-Tariff Executive Actions

Jan. 20, 2025 White House *issued* Executive Memorandum [Regulatory Freeze Pending Review](#) ordering a freeze on promulgation of new rules until they are approved by the Trump Administration.

Jan. 20, 2025 White House *issued* Executive Order [Restoring Accountability to Policy-Influencing Positions Within the Federal Workforce](#) reinstating his previous EO creating a new classification for career employees in “policy-influencing” roles and making them easier to remove from their positions.

Jan. 20, 2025 White House *issued* Executive Order [Establishing and Implementing the President’s “Department of Government Efficiency”](#) formalizing “DOGE” as an official government agency, setting policy for “DOGE,” and mandating “DOGE” teams at other federal agencies.

Jan. 31, 2025 White House *issued* Executive Order [Unleashing Prosperity Through Deregulation](#) setting a deregulatory agenda and requiring agencies to identify 10 regulations for repeal to every 1 regulation they propose.

Feb. 6, 2025 White House *issued* Executive Memorandum [Memorandum for the Heads of Executive Departments and Agencies](#) directing agencies to stop funding Nongovernmental Organizations (NGOs) that undermine the national interest and requires agencies to review all funding provided to NGOs.

Feb. 11, 2025 White House *issued* Executive Order [Implementing the President’s “Department of Government Efficiency” Workforce Optimization Initiative](#) directing agencies to prepare for large-scale reductions in force (RIFs) and undertake a hiring ratio of 1 employee to every 4 that depart.

Relevant Rescinded Biden Administration EOs

DATE ISSUED	EXECUTIVE ORDER
1/20/21	Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (EO 13985)
1/20/21	Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis (EO 13990)
1/22/21	Protecting the Federal Workforce (EO 14003)
1/27/21	Tackling the Climate Crisis at Home and Abroad (EO 14008)
1/20/21	Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis (EO 13990)
5/7/21	Establishment of the Climate Change Support Office (EO 14027)
11/15/21	Implementation of the Infrastructure Investment and Jobs Act (EO 14052)
9/12/22	Implementation of the Energy and Infrastructure Provisions of the Inflation Reduction Act of 2022 (EO 14082)
2/16/23	Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (EO 14091)
4/21/23	Revitalizing Our Nation's Commitment to Environmental Justice for All (EO 14096)
1/6/25	Withdrawal of Certain Areas of the United States Outer Continental Shelf from Oil or Natural Gas Leasing

Important Themes to Congressional Republicans and Trump Administration

- **Innovation**
- **Energy Dominance**
- **Energy Security**
- **All of the Above Energy Strategy**
- **Job Creation**
- **Domestic Supply Chain and Manufacturing**
- **Market or Government Efficiency**

Important Themes (continued)

- **Innovation**

- Trump Cabinet Members Wright (Energy), Burgum (Interior), and Zeldin (EPA) all championed innovation in their confirmation hearing testimony.
- Infusing “Founder Mode” approach within federal government to create economic growth.
- Priorities: energy production, firm power, critical minerals, military readiness.

- **Energy Dominance**

- Maximizing domestic energy production and exports to achieve self-reliance, boost economic output, enhance national security, and increase geopolitical influence.

- **Energy Security**

- Ensuring a stable, reliable, and affordable supply of energy by increasing domestic production, reducing dependency on foreign sources, and protecting critical infrastructure.

- **“All of the Above” Energy Strategy**

- Comprehensive approach to energy (with a focus on firm power) that aims to ensure energy independence.

Important Themes (continued)

- **Job Creation**
 - Central aim of stimulating economic growth and new employment opportunities.
- **Domestic Supply Chain and Manufacturing**
 - Strong focus on domestic and resilient supply chains, including reshoring and reducing dependency on foreign suppliers.
 - Expect tariffs and new requirements for domestic sourcing and manufacturing.
- **Market or Government Efficiency**
 - DOGE: Department of Government Efficiency
 - Policies, projects, or products that promote efficiencies in government and/or markets are a priority.

Key Aims of Energy Secretary Chris Wright

- **Chris Wright, Secretary of Energy**
- **In his confirmation testimony to the Senate Energy Committee, Wright stated three immediate goals:**
 1. “The first is to unleash American energy at home and abroad to restore energy dominance.”
 2. “Second, we must lead the world in innovation and technology breakthroughs.”
 3. “Third, we must build things in America again and remove barriers to progress.”



Questions?

If we don't get to your question, our contact info is below.

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Questions?

We've Got Answers

About Van Ness Feldman

Van Ness Feldman LLP is a law firm specializing in energy, environmental, and natural resources law. With nearly five decades of bipartisan representation, the firm has extensive experience navigating transitions within both the executive and legislative branches. This background positions them to provide critical guidance on the complex legal, regulatory, and enforcement transformations that often accompany new executive orders.

The firm's professionals have a deep understanding of the implications of executive actions across various sectors. For instance, they have analyzed and advised on executive orders affecting the National Environmental Policy Act (NEPA), environmental justice policies, and national security reviews for electric system equipment.

Van Ness Feldman's team includes individuals who have served in previous administrations, federal agencies, as elected officials, or as senior staff members. This diverse experience enables them to comprehend policy and regulatory implications thoroughly and implement strategies responsive to the uncertainties inherent in the transition of power between administrations.

Given their extensive experience and deep understanding of the legal and policy landscapes, Van Ness Feldman is well-equipped to advise clients on matters related to executive orders.



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