Key Environmental and Energy Policies in the Second Trump Administration

An update on federal executive orders, policies and actions, and how businesses can navigate the rapidly changing legal and regulatory landscape

The Trump administration has moved quickly to implement sweeping initiatives aimed at transforming U.S. environmental and energy policies. Babst Calland Attorneys Ben Clapp (left) and Gary Steinbauer (right) address key takeaways and the impact of these far-reaching policy changes affecting American businesses.

Announced through a record-breaking number of executive orders, memoranda and directives, new White House energy and environmental policy initiatives are resulting in a rapidly changing environmental regulatory climate affecting the business community.

To help clients keep pace with these new policy initiatives, and recent steps that EPA has taken to implement this broad deregulatory agenda, attorneys at the law firm Babst Calland offer advice on how businesses can adapt and thrive in a swiftly changing regulatory environment.

It will be some time before we get a clear picture on "this administration's policy objectives and how they're all going to unfold," Gary Steinbauer, a shareholder working with the environmental law practice of Babst Calland's Pittsburgh office, says.

One of the emerging energy policy themes is the Trump administration's goal of "American energy dominance," achieved through permitting reform and environmental deregulation in the energy sector. Other themes include de-emphasizing climate change-based regulatory initiatives, promoting domestic manufacturing and mineral extraction, and grid reliability.

Executive orders 101

An executive order is a written statement in which a president broadcasts a directive to implement a policy change.

Presidents have fairly broad authority in terms of the scope of what they can order, "provided that that order is consistent with the applicable laws," Ben Clapp, shareholder and chair of the environmental section at Babst Calland's Washington, D.C. office, says.

A president cannot, through executive order, revise a regulation or amend or revoke a law. However, a president can revoke a previous administration's executive orders and use them to announce new policy initiatives. Sometimes, when undertaking specific activities that have been delegated to the executive branch by Congress or the Constitution, they can compel a specific, direct action through an executive order without further procedures. In other cases, such as when a president directs an agency to issue or rescind a regulation, the agency needs to comply with notice and comment rulemaking requirements under the Administrative Procedure Act before taking final action.

Of particular interest at present are a slate of executive orders directing agencies to undertake deregulatory and permitting

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reform regulatory actions in furtherance of the promotion of domestic energy production. Among the most noteworthy, the Unleashing American Energy order directs agencies to identify those regulations that serve as an impediment to the production of American energy (in the context of this order – fossil-based resources, uranium, biofuels, hydroelectric power, geothermal energy and critical minerals but not including solar and wind energy sources), and develop and implement action plans to suspend, revise or rescind such actions. This order dovetails with a contemporaneous order Declaring a National Energy Emergency, which directs certain agencies to use emergency authority to facilitate energy development, transportation, refining, and generation.

Other executive orders of note relating to enhancing domestic energy production include:

- Immediate Measures to Increase American Mineral Production, which, in part directs the DOI to identify areas on federal lands that can be "immediately implemented for mineral production."
- Ensuring National Security Through 232 Actions on Processed Critical Minerals, ordering the initiation of an investigation to determine the effects on national security of imports of processed critical minerals and their derivative products.
- Unleashing America's Offshore Critical Minerals and Resources, aimed at seabed mineral development by developing domestic capabilities through streamlined permitting, enhancing coordination amongst agencies.
- Reinvigoration of America's Beautiful Clean Coal Industry, which classifies coal as a mineral of the same level of importance as critical minerals, uranium, and copper, prioritizes coal leases on federal lands, promotes coal technology, including data center support, and directs agencies to identify regulations impeding coal production and consider revising or rescinding them.
- A trio of executive orders aimed at enhancing the domestic production of nuclear power.

In addition, "the United States [issued executive orders] extracting itself from previous administrations' climate change-based regulatory efforts, including removing itself from international climate agreements and rescinding executive orders that were in place to promote climate change-related regulation," Clapp says.

National Energy Policy Act (NEPA) law reform

Since 1970, NEPA has required that agencies closely examine the environmental impacts associated with major federal actions. In the context of emerging production, it's important because the law's environmental review requirements can be triggered:

- In connection with the issuance of leases on federal lands for domestic energy production.
- By the issuance of certain environmental permits, including those issued under Section 404 of the Clean Water Act, allowing the dredging and filling of wetlands.
- By certain federal funding initiatives supporting energy projects.

Given the lengthy environmental review periods involved in the NEPA process and the propensity for project opponents to employ legal challenges to the NEPA process in attempts to delay or block energy projects, NEPA is viewed by the Trump administration as an "impediment to energy production," Clapp says. In furtherance of the Trump administration's Unleashing American Energy Executive Order, in February 2025, the Council on Environmental Quality (CEQ), which is the agency tasked with overseeing the implementation of NEPA, issued a memorandum directing agencies to revise or establish their NEPA implementing procedures to expedite permitting approvals in accordance with NEPA statutory timeframes. The CEQ followed that up with an interim final rule issued in April 2025 rescinding its own NEPA regulations that had been binding on other federal agencies. The current outlook for NEPA reviews remains unclear while we wait for agencies to develop their own NEPA regulations and implement the EO directives to make the approval process more efficient. Under the statute, however, agencies still have up to two years to complete the most detailed form of environmental review.

We are beginning to see early examples of agencies expediting NEPA reviews pursuant to the mandates contained in the executive orders and the CEQ February 2025 memorandum. For example, the Bureau of Land Management recently announced that they were rescinding its notice of intent to prepare Environmental Impact Statements – the most comprehensive and lengthy form of NEPA review, often taking more than two years – for more than 3,200 oil and gas leases in Western states on the grounds that it conflicted with its mandate to reduce regulatory barriers for oil and gas companies and expediting domestic energy development.

Emergency Permitting

Agency efforts are also underway to implement the emergency permitting directive issued in the Declaring a National Energy Emergency Executive Order, which requires that federal agencies, including the Army Corps of Engineers and the Department of the Interior, to use their emergency permitting powers to fast track energy projects requiring permits under Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act, and the Endangered Species Act. The issuance of these permits trigger NEPA reviews, and therefore, the emergency permitting procedures are entwined with the administration's efforts to expedite NEPA reviews.

In response to this directive, the Army Corps of Engineers is actively fast-tracking more than 600 energy projects. For example, in February, the Army Corps committed to issuing its Record of Decision, approving a pipeline underneath the Mackinac Straits in Michigan, in the fall of 2025 – a remarkably quick time frame for completing a NEPA review and issuing required permits.

In May, the DOI issued a memorandum stating they were going to conduct the permitting process for energy projects, using emergency permitting approvals, in no more than 28 days.

"That is an extraordinarily fast amount of time. It can only result in administrative records that are fairly thin," Clapp says. "These projects are going to receive a lot of

attention" from opponents of fossil fuel energy production. I think there's a significant litigation risk there."

Key deregulatory actions

In March 2025, the EPA announced a sweeping deregulatory initiative identifying 31 regulations and agency actions that will be reconsidered in response to the Trump administration's executive orders. "The plan likely will take years to implement and execute," Steinbauer says.

The EPA has begun implementing its deregulatory plan, with the issuance of two significant deregulatory actions that were published in the *Federal Register* on June 17.

The first proposal is to repeal the Biden administration's greenhouse gas emission standards for the power sector based on a new statutory interpretation. "Here, the Trump administration is taking the position that to regulate greenhouse gas emissions, or any new pollutant under this Clean Air Act Section, EPA needs to find that that pollutant contributes significantly to dangerous air pollution," Steinbauer says. The EPA is also proposing an alternative basis for repealing the Biden-era power sector greenhouse gas emission standards. This alternative proposal takes a "more surgical" approach to repeal by finding that carbon capture and sequestration technology is not "adequately demonstrated" and the co-firing of natural gas and low greenhouse gas hydrogen at certain coal fired power plants is an inefficient use of natural gas.

The EPA's second proposal also affects the power generation sector and focuses on mercury emissions standards from coal-fired stations. The Trump EPA is proposing to repeal the Biden administration's 2024 Mercury and Air Toxic Standards (MATS) rule that regulated mercury emissions from coal-fired power plants and set filterable particulate matter emission standards, requires continuous emission monitoring systems to demonstrate compliance, and includes first-time mercury emissions standards for lignite coal plants. The Trump administration now seeks an outright repeal of the 2024 MATS rule, contending that the costs to comply with the Biden administration's MATS rule are too high, there are other means to demonstrate compliance, and there is too much variability in monitoring lignite coal plants to justify those standards.

The Trump administration "took very broad positions" aimed at striking down the Biden-era power sector greenhouse gas emission standards and the MATS rule "at their core and in their entirety," Steinbauer says. This could be a sign that we may see more of "a chainsaw approach" when it comes to deregulation.

On the proposed repeal of the Biden administration's power sector greenhouse gas emission standards, the EPA issued its proposed repeal in June and has pledged to finalize that rule, six months later, in December. "I don't think a rulemaking of this significance has ever proceeded at that pace," Steinbauer says. "Everyone will be watching carefully to see whether the administration follows through on that anticipated timeline."

Beyond the use of executive orders, the President is also using available statutory authorities to advance his goals. In April, President Trump gave roughly 50 coal-fired power plants a two-year compliance extension for the 2024 Mercury Air Toxic Standards using a never-before-used Clean Air Act provision. "Litigation has already been filed challenging this presidential compliance extension," but it could be "a signal that the president is willing to be big and bold and utilize statutory authorities in ways that haven't been contemplated or used [] before to advance his goals," Steinbauer says.

Congress has also been involved in deregulation through its Congressional Review Act, a statute that allows Congress to nullify agency rules that were sent to it within the last 60 legislative days. Before 2017, the Congressional Review Act was only used once since it was enacted in 1996, Steinbauer says. In the first year of President Trump's first term, "it was used 16 times by Congress," Steinbauer says, and the act has been used more frequently since that time, by Congress during the Biden administration and now in President Trump's second term.

Recently, Congress has used the act to strike down a Biden-era EPA regulation implementing the so-called methane tax regulation. Congress has also used the statute to eliminate Clean Air Act waivers that the Biden administration issued to California, relating to motor vehicle and engine emission requirements.

Inevitable litigation

Recent Supreme Court precedent likely will feature prominently in lawsuits challenging the Trump administration's deregulatory actions. As an example, the *Loper Bright* case overturned the long-standing *Chevron* deference doctrine. Now, courts are obligated to exercise independent judgement in interpreting statutes, rather than deferring to an agency's reasonable interpretation of a statute. The Trump administration is aware of *Loper Bright* and other recent Supreme Court decisions, as its deregulatory proposals are using language intended to address these changes.

Litigation is also being used as a "sword" to achieve the administration's domestic energy policy initiatives, explains Steinbauer, referring to the executive order in which President Trump directed the Attorney General to challenge state laws addressing climate change and environmental justice, and those imposing carbon taxes or carbon penalties. The order singles out California, Vermont and New York, and there are now four pending lawsuits filed by the Attorney General against Hawaii, Michigan, New York and Vermont stemming from this executive order.

The EPA is also managing several pending challenges to Biden-era EPA regulations, many of which challenge regulations that the Trump administration has vowed to reconsider. In such cases, the EPA files motions "to hold those lawsuits in abeyance while it undertakes its review and evaluation of the rules that are being challenged," Steinbauer says.

How the Trump administration is shaping EPA

The administration is also making structural changes at EPA, and through other efforts is seeking to change how agencies operate and optimize their workforce.

There are EPA workforce reorganizations occurring that could have lasting effects. For example, the EPA is proposing to eliminate its Office of Research and Development and to create a new Office of Applied Science and Environmental Solutions. The new office's purpose is described as guiding the agency in using science in the regulatory context, and it will be housed in the EPA Administrator's office.

Regarding EPA employees, the agency has incentivized multiple opportunities for deferred resignations or early retirements. There are reports that more than 3,000 EPA employees – or 20 percent of its workforce – took this offer in May. Reports suggest that 1,400 more EPA employees may have participated in this program in June. These workforce reduction efforts are significant because fewer EPA employees will be tasked with implementing the Trump administration's ambitious deregulatory plan, Steinbauer says.

Keeping pace with ongoing policy developments

We are beginning to see concrete steps EPA is taking to advance its sweeping deregulatory plan. The business community needs to stay abreast of these new developments, and there will be opportunities for strategic advocacy when the agency asks for input from the regulated community or other stakeholders, explains Steinbauer.

"The success of those deregulatory efforts depends often on the legal footing and the factual footing," he says. "The factual footing is based on the administrative record, and EPA only has access to certain data and information about a regulated industry." Strategically engaging with the EPA on its deregulatory proposals, whether in support of or against the specific proposal, will be key for businesses navigating the rapidly changing legal landscape.

Despite the EPA's deregulatory plans, many complex environmental regulations remain on the books, and maintaining compliance with those requirements is important. Steinbauer encourages the regulated community to perform audits to assess the strength of their compliance programs and consider using agency self-disclosure policies and laws to mitigate liability and civil penalty exposure.

Finally, Steinbauer says, be patient and adapt as necessary, as the next several years certainly will be eventful.

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