



# Air Legislation, Regulation, and Policy Developments

A&WMA ACE 2025

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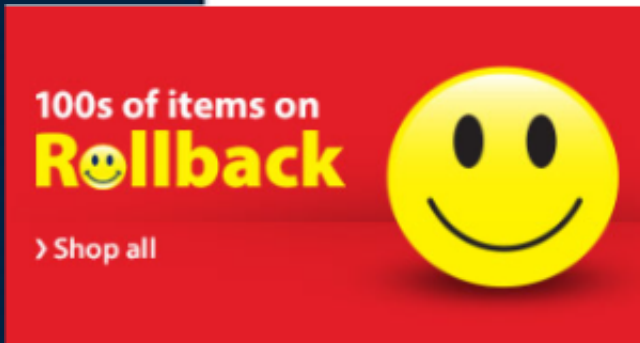
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# THE GREAT ROLLBACK

- Presidential Actions
- EPA Actions
  - Five Pillars
  - Reconsideration of Rules
  - Enforcement
  - Environmental Justice
- Congressional Actions
  - Congressional Review Act





# Presidential Action

## EO 14154 - Jan. 20, 2025 Unleashing American Energy



Federal Register/Vol. 90, No. 18/Wednesday, January 29, 2025/Presidential Documents 8353

### Presidential Documents

Executive Order 14154 of January 20, 2025

#### Unleashing American Energy

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order:

**Section 1. Background.** America is blessed with an abundance of energy and natural resources that have historically powered our Nation's economic prosperity. In recent years, burdensome and ideologically motivated regulations have impeded the development of these resources, limited the generation of reliable and affordable electricity, reduced job creation, and inflicted high energy costs upon our citizens. These high energy costs devastate American consumers by driving up the cost of transportation, heating, utilities, farming, and manufacturing, while weakening our national security.

It is thus in the national interest to unleash America's affordable and reliable energy and natural resources. This will restore American prosperity—including for those men and women who have been forgotten by our economy in recent years. It will also rebuild our Nation's economic and military security, which will deliver peace through strength.

**Sec. 2. Policy.** It is the policy of the United States:

(a) to encourage energy exploration and production on Federal lands and waters, including on the Outer Continental Shelf, in order to meet the needs of our citizens and solidify the United States as a global energy leader long into the future;

(b) to establish our position as the leading producer and processor of non-fuel minerals, including rare earth minerals, which will create jobs and prosperity at home, strengthen supply chains for the United States and its allies, and reduce the global influence of malign and adversarial states;

(c) to protect the United States's economic and national security and military preparedness by ensuring that an abundant supply of reliable energy is readily accessible in every State and territory of the Nation;

(d) to ensure that all regulatory requirements related to energy are grounded in clearly applicable law;

(e) to eliminate the "electric vehicle (EV) mandate" and promote true consumer choice, which is essential for economic growth and innovation, by removing regulatory barriers to motor vehicle access; by ensuring a level regulatory playing field for consumer choice in vehicles; by terminating, where appropriate, state emissions waivers that function to limit sales of gasoline-powered automobiles; and by considering the elimination of unfair subsidies and other ill-conceived government-imposed market distortions that favor EVs over other technologies and effectively mandate their purchase by individuals, private businesses, and government entities alike by rendering other types of vehicles unaffordable;

(f) to safeguard the American people's freedom to choose from a variety of goods and appliances, including but not limited to lightbulbs, dishwashers, washing machines, gas stoves, water heaters, toilets, and shower heads, and to promote market competition and innovation within the manufacturing and appliance industries;

(g) to ensure that the global effects of a rule, regulation, or action shall, whenever evaluated, be reported separately from its domestic costs and

- Announced policies of the US, such as:
  - To encourage energy exploration and production
  - To establish US as the leading producer of non-fuel minerals, including rare earth minerals
  - To eliminate the EV mandate
  - To ensure that all regulatory requirements related to energy are grounded in clearly applicable law
- Ordered "review all existing regulations, orders, guidance documents, policies, settlements, consent orders, and any other agency actions ... to identify those agency actions that impose an undue burden on the identification, development, or use of domestic energy resources
- Ordered restart of reviews of applications for LNG projects
- Revoked EO 11991 (5/24/77) and required CEQ to "propose rescinding" CEQ's NEPA regulations
- Revoked Biden-era EOs on environmental justice and climate (including SSC)
- Paused Green New Deal funding in the IRA



# Presidential Action

EO 14156 - Jan. 20, 2025

## Declaring A National Energy Emergency

- Purpose – The “energy and critical minerals (‘energy’) identification, leasing, development, production, transportation, refining, and generation capacity of the United States are all far too inadequate to meet our Nation’s needs.”
- Directs heads of all executive departments to “exercise any lawful emergency authorities available to them, as well as all other lawful authorities they may possess, to facilitate the identification, leasing, siting, production, transportation, refining, and generation of domestic energy resources, including, but not limited to, on Federal lands.”
- To facilitate the Nation’s energy supply, directs use of ...
  - “the emergency Army Corps permitting provisions”
  - “the ESA regulation on consultations in emergencies”

Federal Register

Vol. 90, No. 18

Wednesday, January 29, 2025

### Presidential Documents

Title 3—

The President

Executive Order 14156 of January 20, 2025

#### Declaring a National Energy Emergency

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (“NEA”), and section 301 of title 3, United States Code, it is hereby ordered:

**Section 1. Purpose.** The energy and critical minerals (“energy”) identification, leasing, development, production, transportation, refining, and generation capacity of the United States are all far too inadequate to meet our Nation’s needs. We need a reliable, diversified, and affordable supply of energy to drive our Nation’s manufacturing, transportation, agriculture, and defense industries, and to sustain the basics of modern life and military preparedness. Caused by the harmful and shortsighted policies of the previous administration, our Nation’s inadequate energy supply and infrastructure causes and makes worse the high energy prices that devastate Americans, particularly those living on low- and fixed-incomes.

This active threat to the American people from high energy prices is exacerbated by our Nation’s diminished capacity to insulate itself from hostile foreign actors. Energy security is an increasingly crucial theater of global competition. In an effort to harm the American people, hostile state and non-state foreign actors have targeted our domestic energy infrastructure, weaponized our reliance on foreign energy, and abused their ability to cause dramatic swings within international commodity markets. An affordable and reliable domestic supply of energy is a fundamental requirement for the national and economic security of any nation.

The integrity and expansion of our Nation’s energy infrastructure—from coast to coast—is an immediate and pressing priority for the protection of the United States’ national and economic security. It is imperative that the Federal government puts the physical and economic wellbeing of the American people first.

Moreover, the United States has the potential to use its unrealized energy resources domestically, and to sell to international allies and partners a reliable, diversified, and affordable supply of energy. This would create jobs and economic prosperity for Americans forgotten in the present economy, improve the United States’ trade balance, help our country compete with hostile foreign powers, strengthen relations with allies and partners, and support international peace and security. Accordingly, our Nation’s dangerous energy situation inflicts unnecessary and perilous constraints on our foreign policy.

The policies of the previous administration have driven our Nation into a national emergency, where a precariously inadequate and intermittent energy supply, and an increasingly unreliable grid, require swift and decisive action. Without immediate remedy, this situation will dramatically deteriorate in the near future due to a high demand for energy and natural resources to power the next generation of technology. The United States’ ability to remain at the forefront of technological innovation depends on a reliable supply of energy and the integrity of our Nation’s electrical grid. Our Nation’s current inadequate development of domestic energy resources leaves us vulnerable to hostile foreign actors and poses an imminent and growing threat to the United States’ prosperity and national security.

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# Presidential Action

EO 14260 – April 8, 2025

## Protecting American Energy From State Overreach

Federal Register / Vol. 90, No. 70 / Monday, April 14, 2025 / Presidential Documents

15513

### Presidential Documents

Executive Order 14260 of April 8, 2025

#### Protecting American Energy From State Overreach

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

**Section 1. Purpose.** My Administration is committed to unleashing American energy, especially through the removal of all illegitimate impediments to the identification, development, siting, production, investment in, or use of domestic energy resources—particularly oil, natural gas, coal, hydropower, geothermal, biofuel, critical mineral, and nuclear energy resources. An affordable and reliable domestic energy supply is essential to the national and economic security of the United States, as well as our foreign policy. Simply put, Americans are better off when the United States is energy dominant.

American energy dominance is threatened when State and local governments seek to regulate energy beyond their constitutional or statutory authorities. For example, when States target or discriminate against out-of-State energy producers by imposing significant barriers to interstate and international trade, American energy suffers, and the equality of each State enshrined by the Constitution is undermined. Similarly, when States subject energy producers to arbitrary or excessive fines through retroactive penalties or seek to control energy development, siting, or production activities on Federal land, American energy suffers.

Many States have enacted, or are in the process of enacting, burdensome and ideologically motivated “climate change” or energy policies that threaten American energy dominance and our economic and national security. New York, for example, enacted a “climate change” extortion law that seeks to retroactively impose billions in fines (erroneously labelled “compensatory payments”) on traditional energy producers for their purported past contributions to greenhouse gas emissions not only in New York but also anywhere in the United States and the world. Vermont similarly extorts energy producers for alleged past contributions to greenhouse gas emissions anywhere in the United States or the globe.

Other States have taken different approaches in an effort to dictate national energy policy. California, for example, punishes carbon use by adopting impossible caps on the amount of carbon businesses may use, all but forcing businesses to pay large sums to “trade” carbon credits to meet California’s radical requirements. Some States delay review of permit applications to produce energy, creating de facto barriers to entry in the energy market. States have also sued energy companies for supposed “climate change” harm under nuisance or other tort regimes that could result in crippling damages.

These State laws and policies weaken our national security and devastate Americans by driving up energy costs for families coast-to-coast, despite some of these families not living or voting in States with these crippling policies. These laws and policies also undermine Federalism by projecting the regulatory preferences of a few States into all States. Americans must be permitted to heat their homes, fuel their cars, and have peace of mind—free from policies that make energy more expensive and inevitably degrade quality of life.

These State laws and policies try to dictate interstate and international disputes over air, water, and natural resources; unduly discriminate against

- “The Attorney General ... shall identify all State and local laws, regulations, causes of action, policies, and practices (collectively, State laws) burdening the identification, development, siting, production, or use of domestic energy resources that are or may be unconstitutional, preempted by Federal law, or otherwise unenforceable.”
- “The Attorney General shall expeditiously take all appropriate action to stop the enforcement of State laws and continuation of civil actions ... that the Attorney General determines to be illegal.”
- “The Attorney General shall submit a report to the President ... regarding actions taken [pursuant to this EO].”



# Presidential Action



- Evaluate lawfulness of existing regulations under the following Supreme Court decisions:
  - *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024)
  - *West Virginia v. EPA*, 597 U.S. 697 (2022)
  - *SEC v. Jarkesy*, 603 U.S. 109 (2024)
  - *Michigan v. EPA*, 576 U.S. 743 (2015)
  - *Sackett v. EPA*, 598 U.S. 651 (2023)
  - *Ohio v. EPA*, 603 U.S. 279 (2024)



# Executive Orders

- Article II, Section 1: “The executive Power shall be vested in a President of the United States of America.”
  - Congressional statute may also authorize executive action
- Generally, sets in motion various actions by federal agencies to conform to the newly announced policies and direction
- Not permanent
  - Subsequent presidents may amend, rescind, or revoke a prior executive order issued by his or an earlier administration





# EPA Actions

## Powering the Great American Comeback Initiative

- Five Pillars
  - Clean Air, Land, and Water for Every American
  - Restore American Energy Dominance
    - Energy independence and dominance will cut energy costs
    - Allow US to stop relying on energy sources from adversaries
  - Permitting Reform, Cooperative Federalism, and Cross-Agency Partnership
    - Ensure projects are being approved
    - Streamline processes to incentivize investment
  - Make the United States the AI Capital of the World
    - Ensure data centers can be powered with US energy
  - Protecting and Bringing Back American Auto Jobs
    - Auto industry is hurting because of the burdensome policies
    - Streamline and develop smart regulations





# EPA Actions

## EPA Launches Biggest Deregulatory Action in U.S. History

Administrator Zeldin Announces 31 Historic Actions to Power the Great American Comeback

March 12, 2025

- UNLEASHING AMERICAN ENERGY
- LOWERING THE COST OF LIVING FOR AMERICAN FAMILIES
- ADVANCING COOPERATIVE FEDERALISM



# EPA Actions

## UNLEASHING AMERICAN ENERGY

- Reconsideration of regulations on power plants (Clean Power Plan 2.0)
- Reconsideration of regulations throttling the oil and gas industry (OOOO b/c)
- Reconsideration of Mercury and Air Toxics Standards that improperly targeted coal-fired power plants (MATS)
- Reconsideration of mandatory Greenhouse Gas Reporting Program that imposed significant costs on the American energy supply (GHG Reporting Program)
- Reconsideration of limitations, guidelines and standards (ELG) for the Steam Electric Power Generating Industry to ensure low-cost electricity while protecting water resources (Steam Electric ELG)
- Reconsideration of wastewater regulations for oil and gas development to help unleash American energy (Oil and Gas ELG)
- Reconsideration of Biden-Harris Administration Risk Management Program rule that made America's oil and natural gas refineries and chemical facilities less safe (Risk Management Program Rule)



# EPA Actions

## LOWERING THE COST OF LIVING FOR AMERICAN FAMILIES

- Reconsideration of light-duty, medium-duty, and heavy-duty vehicle regulations that provided the foundation for the Biden-Harris electric vehicle mandate (Car GHG Rules)
- Reconsideration of the 2009 Endangerment Finding and regulations and actions that rely on that Finding (Endangerment Finding)
- Reconsideration of technology transition rule that forces companies to use certain technologies that increased costs on food at grocery stores and semiconductor manufacturing (Technology Transition Rule)
- Reconsideration of Particulate Matter National Ambient Air Quality Standards that shut down opportunities for American manufacturing and small businesses (PM 2.5 NAAQS)
- Reconsideration of multiple National Emission Standards for Hazardous Air Pollutants for American energy and manufacturing sectors (NESHAPs)
- Restructuring the Regional Haze Program that threatened the supply of affordable energy for American families (Regional Haze)
- Overhauling Biden-Harris Administration's "Social Cost of Carbon"
- Redirecting enforcement resources to EPA's core mission to relieve the economy of unnecessary bureaucratic burdens that drive up costs for American consumers (Enforcement Discretion)
- Terminating Biden's Environmental Justice and DEI arms of the agency (EJ/DEI)



# EPA Actions

## ADVANCING COOPERATIVE FEDERALISM

- Ending so-called “Good Neighbor Plan” which the Biden-Harris Administration used to expand federal rules to more states and sectors beyond the program’s traditional focus and led to the rejection of nearly all State Implementation Plans
- Working with states and tribes to resolve massive backlog with State Implementation Plans and Tribal Implementation Plans that the Biden-Harris Administration refused to resolve (SIPs/TIPs)
- Reconsideration of exceptional events rulemaking to work with states to prioritize the allowance of prescribed fires within State and Tribal Implementation Plans (Exceptional Events)
- Reconstituting Science Advisory Board and Clean Air Scientific Advisory Committee (SAB/CASAC)
- Prioritizing coal ash program to expedite state permit reviews and update coal ash regulations (CCR Rule)
- Utilizing enforcement discretion to further North Carolina’s recovery from Hurricane Helene



# EPA Actions

- Administrative Procedure Act
  - Notice via publication in the Federal Register
  - Comment period and possible public hearing
  - Unless “good cause” found that notice-and-comment is “impracticable, unnecessary, or contrary to the public interest”
  - “Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.” 5 USC §553(e).
  
- Can an agency change its mind?
  - Yes, via the ‘change-in-position’ doctrine
  - Agency must provide a reasoned explanation for the change, display awareness that they are changing position, and consider serious reliance interests
  - Two questions:
    - Did the agency change existing policy?
    - If so, did the agency display awareness that it is changing position and offer good reasons for the new policy?
  - See *Food and Drug Administration v. Wages and White Lion Investments, L.L.C.*, 604 U.S. ---, 145 S.Ct. 898, 2025 WL 978101, April 2, 2025



# Enforcement

March 12, 2025

## MEMORANDUM

**SUBJECT:** Implementing National Enforcement and Compliance Initiatives Consistently with Executive Orders and Agency Priorities

- Review and revise the National Enforcement and Compliance Initiatives to ensure alignment with the Five Pillars
- Environmental justice considerations shall no longer inform EPA's enforcement and compliance assurance work
- Shall not shut down any stage of energy production (from exploration to distribution) or power generation absent an imminent and substantial threat to human health or an express statutory or regulatory requirement to the contrary
- No longer focus on methane emissions from oil and gas facilities
- Enforcement and compliance assurance for coal ash at active power plant facilities shall focus on imminent threats to human health
- Can continue to focus on areas with the highest levels of HAPs, but they will no longer focus exclusively on communities selected as being "already highly burdened with pollution impacts"



# Environmental Justice

## EPA Terminates Biden's Environmental Justice, DEI Arms of Agency

March 12, 2025

- Terminated “the Biden-Harris Administration’s Environmental Justice and Diversity, Equity, and Inclusion arms of the agency”
  - Employees placed on administrative leave
- Informed states not to use federal funds for state EJ efforts
- Civil Rights Act of 1964 (Title VI) still in place
  - Recipients of federal funds cannot discriminate
  - But, regulations institute a complaint investigation process
  - And, EO 14281 requires AG to repeal regulations “to the extent they contemplate disparate-impact liability”





# Congressional Review Act

- Congress may utilize a “joint resolution of disapproval” to consider and/or overturn rules
- Strict time frames for which rules to be subject to CRA
  - Generally, JR must be introduced 60 days after report on a rule is received by Congress
  - Excluding days of adjournment lasting more than 3 days
- Must pass both houses and be signed by president
- If passed, rule has no “force or effect”



# Congressional Review Act

- Passed and signed into law:
  - HJ Res. 35: EPA - "Waste Emissions Charge for Petroleum and Natural Gas Systems: Procedures for Facilitating Compliance, Including Netting and Exemptions"
  - DOE - Numerous appliance regulations
    - Freezers - HJ Res. 75
    - Water Heaters - HJ Res. 25
    - Walk-in Coolers and Freezers - HJ Res. 20
    - Labeling - HJ Res. 42
  - HJ Res. 61: EPA - "NESHAPs – Rubber Tire Manufacturing"
- Passed and sent to President:
  - SJ Res. 31: EPA - "Reclassification of Major Sources as Area Sources"
  - HJ Res. 87, 88, 89: EPA - California waivers
    - GAO/Senate Parliamentarian ruled not eligible for CRA



## QUESTIONS??

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