

Alert | Energy & Natural Resources



March 2025

National Energy Emergency Declaration May Accelerate Traditional Energy Infrastructure Projects

On Jan. 20, 2025, President Donald Trump issued an executive order (EO) **declaring a National Energy Emergency**, aiming to enhance domestic energy resource development and critical minerals capacity. The EO could expedite federal permitting and approval processes for a variety of energy infrastructure projects, although the definition of “Energy” and “Energy Resources” excludes certain renewable energy sources like solar, wind, and hydrogen, from its scope.

Scope and Objectives

The EO cites high energy costs and an unreliable energy grid as threats to national security and economic prosperity. It defines “energy” and “energy resources” broadly to include traditional resources such as crude oil, natural gas, coal, uranium, biofuels, critical minerals, lease condensates, refined petroleum products, geothermal heat, and the kinetic movement of flowing water. However, this list of energy resources notably excludes solar, wind, and hydrogen.

The order directs federal agencies to identify and use lawful authorities to accelerate the leasing, production, transportation, refining, and generation of domestic energy resources. This includes leveraging emergency permitting provisions under the Army Corps of Engineers and specific regulatory frameworks like the Clean Water Act and the Endangered Species Act (ESA), section 10 of the Rivers and Harbors Act of March 3, 1899, and section 103 of the Marine Protection Research and Sanctuaries Act of 1972. A resolution against the EO has been rejected by the U.S. Senate in a 52-47 vote.

Key Directives

1. *Permitting Processes*: Agencies are instructed to maximize the use of emergency permitting measures to facilitate energy infrastructure development.
2. *Defense Production and Eminent Domain*: If deemed necessary, agencies may submit recommendations for employing federal eminent domain or the Defense Production Act to advance projects.
3. *Endangered Species Act Compliance*: The Secretary of the Interior must streamline ESA-related reviews, convening the Endangered Species Act Committee quarterly to resolve applications for exemptions under strict timelines.

Implications for Energy Developers

While the EO presents significant opportunities for traditional energy resource projects – particularly those involving petroleum, natural gas, and critical minerals – it remains unclear whether solar, wind, and hydrogen developers will benefit. Projects in these sectors may not see direct support under the emergency framework.

Next Steps

Developers and stakeholders in the energy sector are encouraged to monitor announcements from federal agencies related to expedited actions and processes under the EO. These developments may present unique opportunities to advance qualifying projects in the evolving regulatory environment.

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