

APRIL 2025

VOL. 25-4

PRATT'S

# ENERGY LAW

## REPORT



### **EDITOR'S NOTE: MUCH ADO ABOUT BATTERIES**

Victoria Prussen Spears

### **UNDERSTANDING CURRENT BATTERY AND BESS SUPPLY CHAIN RISKS**

Eric Pogue, S. Kris Agarwal, David Mortlock, Archie Fallon, Dale Smith, Noah Pollak, Christopher T. Demet, Sidney Nunez, Niko Letsos and Jacob Bell

### **BATTERY AND BESS SUPPLY CHAIN RISK MITIGATION STRATEGIES FOR DEVELOPERS, INVESTORS, LENDERS, AND SUBSEQUENT OWNERS**

Christopher T. Demet, S. Kris Agarwal, Eric Pogue, Archie Fallon, Dale Smith, Amanda Rosenberg, Rachel Hudson and Niko Letsos

### **FEDERAL ENERGY REGULATORY COMMISSION AMENDS WATER QUALITY CERTIFICATION REQUIREMENTS**

Albert P. Barker and Aidan R. Freeman

### **TRUMP ADMINISTRATION REQUESTS PAUSES IN SEVERAL SUPREME COURT CASES TO RECONSIDER BIDEN ADMINISTRATION POLICIES**

Jeremy J. Broggi, Tatiana Sainati, Joel S. Nolette and Stephanie Rigizadeh

### **SOMETHING BIDEN AND TRUMP CAN AGREE ON? DATA CENTERS, AI AND ENERGY GENERATION**

Allan C. Van Vliet, Adam J. Weaver and Andrew J. Weiner

### **NOTEWORTHY ENVIRONMENTAL CASES TO KEEP YOUR EYE ON**

Freedom S.N. Smith

### **FEDERAL ENERGY POLICY UPDATE: A TUMULTUOUS START TO 2025**

John Lushetsky, R. Neal Martin and Myria S. Garcia

# Pratt's Energy Law Report

---

VOLUME 25

NUMBER 4

April 2025

---

**Editor's Note: Much Ado About Batteries**

Victoria Prussen Spears 93

**Understanding Current Battery and BESS Supply Chain Risks**

Eric Pogue, S. Kris Agarwal, David Mortlock, Archie Fallon, Dale Smith,  
Noah Pollak, Christopher T. Demet, Sidney Nunez, Niko Letsos and  
Jacob Bell 95

**Battery and BESS Supply Chain Risk Mitigation Strategies for  
Developers, Investors, Lenders, and Subsequent Owners**

Christopher T. Demet, S. Kris Agarwal, Eric Pogue, Archie Fallon,  
Dale Smith, Amanda Rosenberg, Rachel Hudson and Niko Letsos 101

**Federal Energy Regulatory Commission Amends Water Quality  
Certification Requirements**

Albert P. Barker and Aidan R. Freeman 106

**Trump Administration Requests Pauses in Several Supreme Court  
Cases to Reconsider Biden Administration Policies**

Jeremy J. Broggi, Tatiana Sainati, Joel S. Nolette and Stephanie Rigizadeh 111

**Something Biden and Trump Can Agree On? Data Centers, AI and  
Energy Generation**

Allan C. Van Vliet, Adam J. Weaver and Andrew J. Weiner 115

**Noteworthy Environmental Cases to Keep Your Eye On**

Freedom S.N. Smith 118

**Federal Energy Policy Update: A Tumultuous Start to 2025**

John Lushetsky, R. Neal Martin and Myria S. Garcia 125

**QUESTIONS ABOUT THIS PUBLICATION?**

---

For questions about the **Editorial Content** appearing in these volumes or reprint permission, please call or email:

Raeesa Hoosen, LLB. at ..... (1908) 673-3323

Email: ..... raeesa.hoosen@lexisnexis.co.za

For assistance with replacement pages, shipments, billing or other customer service matters, please call:

Customer Services Department at ..... (800) 833-9844

Outside the United States and Canada, please call ..... (518) 487-3385

Fax Number ..... (800) 828-8341

LexisNexis® Support Center ..... <https://supportcenter.lexisnexis.com/app/home/>

For information on other Matthew Bender publications, please call

Your account manager or ..... (800) 223-1940

Outside the United States and Canada, please call ..... (518) 487-3385

---

ISBN: 978-1-6328-0836-3 (print)

ISBN: 978-1-6328-0837-0 (ebook)

ISSN: 2374-3395 (print)

ISSN: 2374-3409 (online)

Cite this publication as:

[author name], [*article title*], [vol. no.] PRATT'S ENERGY LAW REPORT [page number] (LexisNexis A.S. Pratt);

Ian Coles, *Rare Earth Elements: Deep Sea Mining and the Law of the Sea*, 14 PRATT'S ENERGY LAW REPORT 4 (LexisNexis A.S. Pratt)

This publication is designed to provide authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional services. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

LexisNexis and the Knowledge Burst logo are registered trademarks of RELX Inc. Matthew Bender, the Matthew Bender Flame Design, and A.S. Pratt are registered trademarks of Matthew Bender Properties Inc.

Copyright © 2025 Matthew Bender & Company, Inc., a member of LexisNexis. All Rights Reserved.

No copyright is claimed by LexisNexis or Matthew Bender & Company, Inc., in the text of statutes, regulations, and excerpts from court opinions quoted within this work. Permission to copy material may be licensed for a fee from the Copyright Clearance Center, 222 Rosewood Drive, Danvers, Mass. 01923, telephone (978) 750-8400.

Editorial Office  
230 Park Ave., 7th Floor, New York, NY 10169 (800) 543-6862  
[www.lexisnexis.com](http://www.lexisnexis.com)

MATTHEW  BENDER

# *Editor-in-Chief, Editor & Board of Editors*

---

## **EDITOR-IN-CHIEF**

**STEVEN A. MEYEROWITZ**

*President, Meyerowitz Communications Inc.*

## **EDITOR**

**VICTORIA PRUSSEN SPEARS**

*Senior Vice President, Meyerowitz Communications Inc.*

## **BOARD OF EDITORS**

**SAMUEL B. BOXERMAN**

*Partner, Sidley Austin LLP*

**ANDREW CALDER**

*Partner, Kirkland & Ellis LLP*

**M. SETH GINTHER**

*Partner, Hirschler Fleischer, P.C.*

**STEPHEN J. HUMES**

*Partner, Holland & Knight LLP*

**R. TODD JOHNSON**

*Partner, Jones Day*

**BARCLAY NICHOLSON**

*Partner, Norton Rose Fulbright*

**ELAINE M. WALSH**

*Partner, Baker Botts L.L.P.*

**SEAN T. WHEELER**

*Partner, Kirkland & Ellis LLP*

---

## **Hydraulic Fracturing Developments**

**ERIC ROTHENBERG**

*Partner, O'Melveny & Myers LLP*

---

*Pratt's Energy Law Report* is published 10 times a year by Matthew Bender & Company, Inc. Copyright © 2025 Matthew Bender & Company, Inc., a member of LexisNexis. All Rights Reserved. No part of this journal may be reproduced in any form—by microfilm, xerography, or otherwise—or incorporated into any information retrieval system without the written permission of the copyright owner. For customer support, please contact LexisNexis Matthew Bender, 9443 Springboro Pike, Miamisburg, OH 45342 or call Customer Support at 1-800-833-9844. Direct any editorial inquiries and send any material for publication to Steven A. Meyerowitz, Editor-in-Chief, Meyerowitz Communications Inc., 26910 Grand Central Parkway Suite 18R, Floral Park, New York 11005, smeyerowitz@meyerowitzcommunications.com, 631.291.5541. Material for publication is welcomed—articles, decisions, or other items of interest to lawyers and law firms, in-house counsel, government lawyers, senior business executives, and anyone interested in privacy and cybersecurity related issues and legal developments. This publication is designed to be accurate and authoritative, but neither the publisher nor the authors are rendering legal, accounting, or other professional services in this publication. If legal or other expert advice is desired, retain the services of an appropriate professional. The opinions expressed are those of the author(s) and do not necessarily reflect the views of their employer, its clients, RELX, LexisNexis, Matthew Bender & Co., Inc., or any of its or their respective affiliates.

POSTMASTER: Send address changes to *Pratt's Energy Law Report*, LexisNexis Matthew Bender, 230 Park Ave. 7th Floor, New York NY 10169.

# Federal Energy Policy Update: A Tumultuous Start to 2025

*By John Lushetsky, R. Neal Martin and Myria S. Garcia\**

*In this column, the authors discuss recent federal energy developments.*

The saying “March comes in like a lion” refers to the weather. However, in the political sphere, the Trump administration has ushered in a turbulent start to the year that generated waves across the energy policy spectrum in February. The administration kicked off a flurry of activity following the inauguration on January 20 and issuance of a number of executive orders (EO’s) shortly after.

## **EXECUTIVE ORDERS AND POLICY SHIFTS**

Following Executive Order 14154 (Unleashing American Energy),<sup>1</sup> disbursements for various energy-related programs were temporarily halted. This included the funding of a loan guarantee for Montana Renewables and a loan guarantee for Holtec, which was later released. However, the future of other loan draws, closings, and conditional commitments remains uncertain. The extent of discretion granted to the director of the Loan Programs Office (LPO) is unclear – especially now as Lane Genatowski, Trump’s former director of the Advanced Research Programs Agency for Energy (ARPA-E), steps into the role that John Sneed was temporarily holding.

Meanwhile, the administration placed the head of the EPA Greenhouse Gas Reduction Fund (GGRF) on leave due to funding disputes, with reports that parts of the GGRF remain frozen. For the National Electric Vehicle Infrastructure program (NEVI), the Federal Highway Administration said that a draft of the program’s amended policies will be published for public comment in the spring before a final version of the program is issued. Some CHIPS recipients are also being asked to renegotiate terms that are more in line with the administration’s tougher stance on China. Those reports notwithstanding, other obligated funds appear to be moving forward following several court orders.

Even with release of obligated funding, it is anticipated that the administration will seek to test the boundaries of the Impoundment Control Act of 1974

---

\* John Lushetsky (jlushetsky@mlstrategies.com) is senior vice president of ML Strategies. R. Neal Martin (rnmartin@mlstrategies.com) is senior director of government relations at the firm. Myria S. Garcia (msgarcia@mlstrategies.com) is manager of legislative and regulatory affairs at the firm.

<sup>1</sup> <https://public-inspection.federalregister.gov/2025-01956.pdf>.

or invoke broader constitutional arguments to control or withhold funding – an issue likely to be contested in the courts.

## **FEDERAL LAYOFFS AND WORKFORCE REDUCTIONS**

Significant layoffs have swept through nearly all federal agencies, including the Department of Energy, where an estimated 1,000 to 2,000 employees were let go. The LPO alone saw approximately 50 recently hired employees – roughly 10 to 20% of its staff – dismissed, many of whom occupied critical, hard-to-fill positions. Contractors are also being affected, though the full impact is still unfolding.

Notably, full-time employees were targeted before contractors, signaling the administration's intent to reduce headcount rather than just cut budgets. In the short and long term, this could lead to increased reliance on contractors to maintain essential operations.

## **REGULATORY OVERHAULS AND PERMITTING CHANGES**

The administration followed up on EO 14154<sup>2</sup> with an interim final rule<sup>3</sup> directing agencies to revise or establish their own National Environmental Policy Act (NEPA) procedures. This move rescinded the Council on Environmental Quality's (CEQ) regulatory oversight and eliminated a Carter-era executive order. While intended to accelerate permitting, the resulting policy variations between agencies may create new inefficiencies. Further NEPA-related actions from the administration are expected.

In a related move, the Army Corps of Engineers briefly published – then withdrew – a list of over 600 fast-tracked energy projects, some of which had tenuous connections to the energy security framework outlined in EO 14156 (Declaring a National Energy Emergency).<sup>4</sup> Any formal project list is likely to face significant legal challenges to meeting the exceptions detailed in the Endangered Species Act and Clean Water Act.

Additionally, the administration issued an executive order titled “Ensuring Accountability for All Agencies,”<sup>5</sup> requiring federal agencies to coordinate policies with the White House. This raises questions about the Federal Energy

---

<sup>2</sup> <https://public-inspection.federalregister.gov/2025-01956.pdf>.

<sup>3</sup> <https://ceq.doe.gov/docs/laws-regulations/CEQ-Interim-Final-Rule-Pre-publication-Version.pdf>.

<sup>4</sup> <https://www.govinfo.gov/app/details/DCPD-202500123>.

<sup>5</sup> <https://www.whitehouse.gov/presidential-actions/2025/02/ensuring-accountability-for-all-agencies/>.

Regulatory Commission's (FERC) independence and whether the order could inject greater political influence into FERC's decision-making, complicating long-term business planning.

Offshore wind projects continue to face setbacks, with New Jersey announcing it will not proceed with its fourth offshore wind solicitation due to Shell withdrawing as an equity partner and growing political uncertainty at the federal level. Additionally, the US Department of the Interior's Bureau of Ocean Energy Management (BOEM) canceled three meetings related to the Vineyard Mid-Atlantic 2 GW offshore wind project off the coast of Long Island, citing a Trump executive order<sup>6</sup> that temporarily withdrew all areas on the outer continental shelf from offshore wind leasing.

Meanwhile, efforts to craft a comprehensive permitting reform bill have yet to yield a viable alternative to the stalled Manchin-Barrasso proposal from the previous Congress.

## CONGRESSIONAL DEVELOPMENTS AND BUDGET BATTLES

On March 15, President Trump signed a full-year continuing resolution (CR) that successfully avoids a government shutdown. This legislation maintains 2024 funding levels until the end of the fiscal year, September 30, 2025, and notably included a \$6 billion increase in defense spending but did not include earmark requests. Up next, Republicans are discussing what to include in their reconciliation bill. The House and Senate adopted separate budget resolutions with the House aiming for one "beautiful" reconciliation bill and the Senate pursuing a two-bill approach. Now, Congress is discussing how to align. The House resolution calls on the House Energy and Commerce Committee to reduce the federal deficit by at least \$880 billion over ten years in order to support extending the Tax Cuts and Jobs Act. While debate ensues about whether to cut Medicaid to generate this funding, the Inflation Reduction Act (IRA) tax credits are also a key target for potential budget offsets. We can expect individual members will be lobbying hard to minimize the impacts in their district and maintain a 'scalpel not a sledgehammer' approach to the IRA. Major facilities like the DOE national labs are being defended by both parties and should continue to receive strong support.

While budget negotiations proceed, Republicans are also targeting regulatory rollbacks using the Congressional Review Act (CRA), including EPA's methane fee and several recently issued DOE appliance standards. Separately, DOE also

---

<sup>6</sup> <https://www.whitehouse.gov/presidential-actions/2025/01/temporary-withdrawal-of-all-areas-on-the-outer-continental-shelf-from-offshore-wind-leasing-and-review-of-the-federal-governments-leasing-and-permitting-practices-for-wind-projects/>.



recently announced<sup>7</sup> a hold on appliance standards – including those for central air conditioners, clothes washers and dryers, general service lighting, walk-in coolers and freezers, gas instantaneous water heaters, commercial refrigeration equipment, and air compressors, which may be potentially reissued. The move was accompanied by a similar step at the EPA, where Administrator Lee Zeldin ordered<sup>8</sup> regulators to overhaul federal water specifications governing kitchen faucets and other household equipment.

In a separate push, Republicans are challenging California's authority to set its own emissions standards under waivers granted since the Clean Air Act of 1971. The legality of using the CRA to revoke these waivers is uncertain, but the broader objective appears to be to challenge California's ability to set its own emission standards, an exemption it has received since the Clean Air Act was signed in 1971.

Additionally, Senator John Barrasso introduced<sup>9</sup> the Eliminating Lavish Incentives to Electric (ELITE) Vehicles Act (S.541),<sup>10</sup> to fulfill a Trump campaign promise. The bill aims to:

- *Eliminate* the \$7,500 tax credit for new electric vehicles (EVs)
- *Remove* the tax credit for used EV purchases
- *End* federal investment tax credits for EV charging stations

Capping off February, news broke that the EPA was going to begin an aggressive review of the “endangerment finding” under the Clean Air Act, as called for in EO 14154. Any action to reverse the finding will need to play out through the courts but could have broad impact on EPA's ability to regulate greenhouse gases for power plants, industrial facilities, and vehicles. Further administrative action is expected to revise fuel efficiency and emissions standards, which critics argue provide a disproportionate benefit to electric vehicles.

## TRADE AND UNRESOLVED ISSUES

Several key uncertainties remain as Trump's 25% tariffs on imports from Canada and Mexico went into effect on March 4th but then were postponed

---

<sup>7</sup> <https://www.energy.gov/articles/energy-department-acts-lower-prices-and-increase-consumer-choice-household-appliances>.

<sup>8</sup> <https://www.epa.gov/newsreleases/trump-administration-takes-action-lower-cost-living-protect-consumer-choice-household>.

<sup>9</sup> <https://www.barrasso.senate.gov/newsroom-news-releases-barrasso-bill-ends-electric-vehicle-tax-credits/>.

<sup>10</sup> <https://www.congress.gov/bill/119th-congress/senate-bill/541>.

after Trump announced two days later that he would put these tariffs on pause for a month. However, he has vowed to issue a fresh round of “reciprocal tariffs” on April 2nd where administration officials will supposedly determine a different tariff rate for each country based on their trade barriers. The outlook for further negotiation, alteration, or cancellations at this point is not clear.

Adding to the complexity, the DeepSeek announcement from China has sparked new questions about the energy demands of AI data centers, potentially influencing future policy decisions.

### **LOOKING AHEAD**

February and March were marked by aggressive executive action, regulatory shifts, and legislative maneuvering. As April unfolds, the trajectory of federal energy policy remains unpredictable, with ongoing legal battles, budget negotiations, and regulatory challenges shaping the landscape. Expect continued turbulence in the months ahead as the administration tests its authority and Congress navigates political and policy constraints.