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# Energy & Environmental Policies Under Trump

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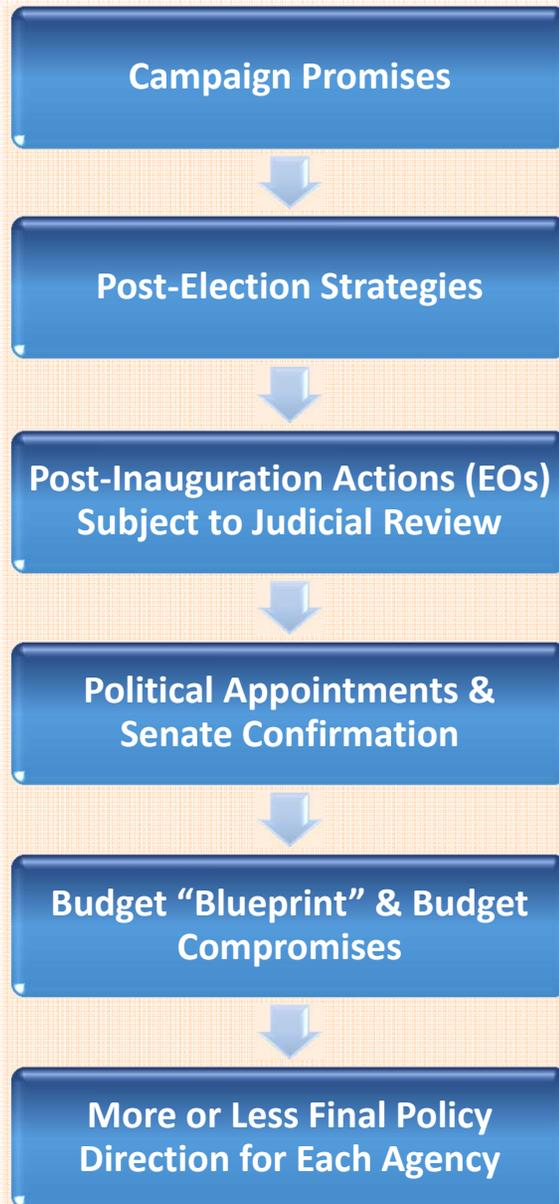


# Caveats



- Trump policies are a work in progress.
- Key appointments at EPA, DOE, FERC, DOI, etc. are still pending.
- Trump is attempting to deliver on what he promised, but there have been exceptions.
- Expect surprises.

# Policy Evolution



The Trump Administration is attempting to change the process by which all recent administrations of either party—except maybe Reagan’s first term—have defined the role of the federal government, managed the bureaucracy, and set priorities. These efforts are constrained by existing laws and the Constitution’s requirement for the separation of power among three equal branches: legislative, executive and judicial.

# Main Themes of the Trumpian Space

- National security and sovereignty
  - Immigration policy
  - DOD plan to defeat ISIS
- Economic nationalism
  - Withdraw from Trans-Pacific Partnership (TPP)
  - Establish bilateral trading relationships
  - Border Adjustment Tax
- Deconstruction of the administrative state
  - Eliminate regulations (abolish two regulations for every new regulation); Freeze on new or pending regulations
  - Regulatory Reform Task Forces
  - Review 2010 Dodd-Frank financial regulatory law
  - 5-year ban on officials becoming lobbyists after they leave government
  - Federal hiring freeze (excluding the military)

# An America First Energy Plan

*Source: Campaign Speech in North Dakota, May 26, 2016*

- Rescind all the job-destroying Obama executive actions including the Climate Action Plan and the Waters of the US rule.
- Save the coal industry and other industries threatened by Hillary Clinton's extremist agenda.
- Ask Trans Canada to renew its permit application for the Keystone Pipeline.
- Lift moratoriums on energy production in federal areas
- Revoke policies that impose unwarranted restrictions on new drilling technologies. These technologies create millions of jobs with a smaller footprint than ever before.
- Cancel the Paris Climate Agreement and stop all payments of US tax dollars to UN global warming programs.
- Scrap any regulation that is outdated, unnecessary, bad for workers, or contrary to the national interest. Eliminate duplication, provide regulatory certainty, and trust local officials and local residents.
- Any future regulation will go through a simple test: is this regulation good for the American worker? If it doesn't pass this test, the rule will not be approved.

# Post-Election Energy Policy

*Memorandum by Thomas Pyle, Head of DOE Transition Team*

- Withdraw from the Paris Agreement
- Increase Federal Oil and Natural Gas Leasing
- Lift Coal Lease Moratorium
- Give States Greater Say on Energy Leases on Federal Lands within Their Borders
- Expedite Approvals of LNG Export Terminals
- Hit Reset on Clean Power Plan
- Reconsider “Endangerment Finding”
- Move Forward with Pipeline Infrastructure
- Closer Look at Environmental Impacts of Wind Energy
- Reduce Energy Subsidies
- Amend Renewable Fuel Standard (RFS)
- Hit Reset on Waters of the United States (WOTUS) Rule
- Relax Federal Fuel Economy Standards
- End Use of Social Cost of Carbon in Federal Rulemakings

# An America First Energy Plan

*White House Website: <https://www.whitehouse.gov/america-first-energy>*

1. Lower costs for hardworking Americans and maximize the use of American resources, freeing us from dependence on foreign oil.
2. Eliminate harmful and unnecessary policies such as the Climate Action Plan and the Waters of the US rule. Lifting these restrictions will greatly help American workers, increasing wages by more than \$30 billion over the next 7 years.
3. Embrace the shale oil and gas revolution to bring jobs and prosperity to millions of Americans. Take advantage of the estimated \$50 trillion in untapped shale, oil, and natural gas reserves, especially those on federal lands. Use the revenues from energy production to rebuild our roads, schools, bridges and public infrastructure. Less expensive energy will be a big boost to American agriculture, as well.
4. Commit to clean coal technology to revive America's coal industry.

# An America First Energy Plan

*White House Website: <https://www.whitehouse.gov/america-first-energy>*

6. A brighter future depends on energy policies that stimulate our economy, ensure our security, and protect our health. Under the Trump Administration's energy policies, that future can become a reality.
7. Boosting domestic energy production is in the national security interest. Achieve energy independence from the OPEC cartel and any nations hostile to our interests. At the same time, work with Gulf allies to develop a positive energy relationship as part of our anti-terrorism strategy.
8. Lastly, our need for energy must go hand-in-hand with responsible stewardship of the environment. Protecting clean air and clean water, conserving our natural habitats, and preserving our natural reserves and resources will remain a high priority. President Trump will refocus the EPA on its essential mission of protecting our air and water.

# Executive Actions to Date

- Interior Department intends to withdraw and rewrite a 2015 rule aimed at limiting “fracking” on public lands (March 15).
- EPA issues formal notice announcing that it intends to seek a new determination on whether to retain or change its GHG standards (54.5 MPG by 2025) for light-duty vehicles (March 15)
- EPA “Does Not Object” to Power Sector Request for More Briefing of CPP Appeal – Would Likely Delay DC Circuit Ruling on Merits of Clean Power Plan (March 13)
- Executive Order on Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the "Waters of the United States" Rule (February 28)
- Executive Order on Enforcing the Regulatory Reform Agenda (February 24)

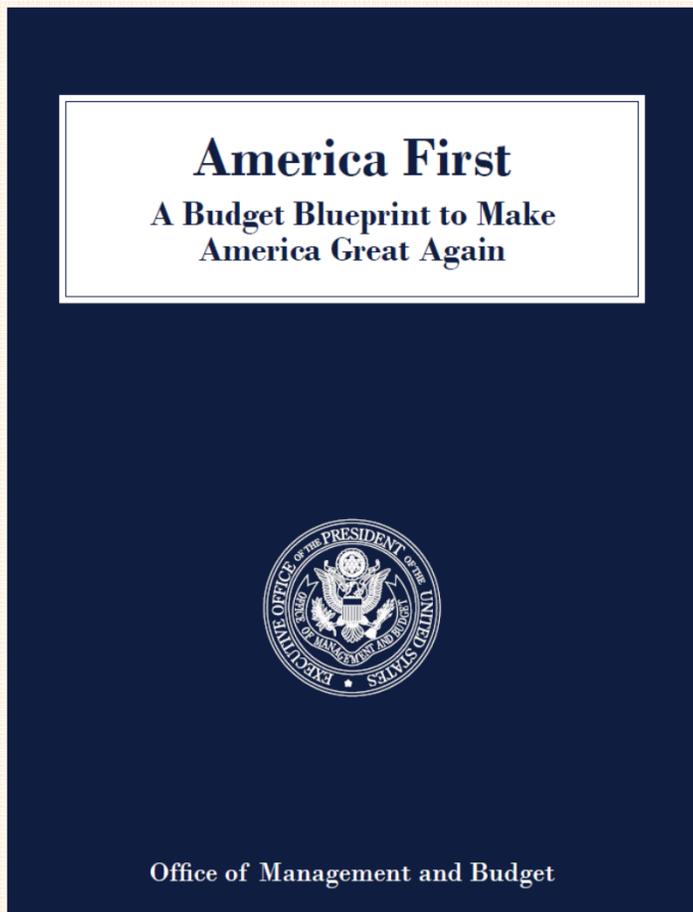
# Executive Actions to Date

- Executive Order on Reducing Regulation and Controlling Regulatory Costs (January 30)
- Executive Order Expediting Environmental Reviews and Approvals For High Priority Infrastructure Projects (January 24)
- Presidential Memorandum Regarding Construction of American Pipelines (January 24)
- Presidential Memorandum Regarding Construction of the Keystone XL Pipeline (January 24)
- Presidential Memorandum Regarding Construction of the Dakota Access Pipeline (January 24)

# Political Appointments

- Trump has the authority to appoint over 4,000 jobs in the federal bureaucracy.
- About 1,212 senior appointments require Senate confirmation.
- As of March 13, Trump has nominated only 42 of the Senate confirmed positions. 18 have been approved and 3 have been withdrawn from consideration. Office of Government Ethics data indicates that few nominees for important positions are in the pipeline.
- In defense, Trump is questioning the purpose and need for many of the jobs. But delay is leaving many important policy positions vacant or filled with holdovers from the Obama Administration who are capable of hampering Trump's ability to enact his priorities.
- Experienced people are also forsaking the opportunity to fill key posts because of Trump's Executive Order forbidding federal employees from lobbying for 5 years after leaving government service.

# Budget Blueprint



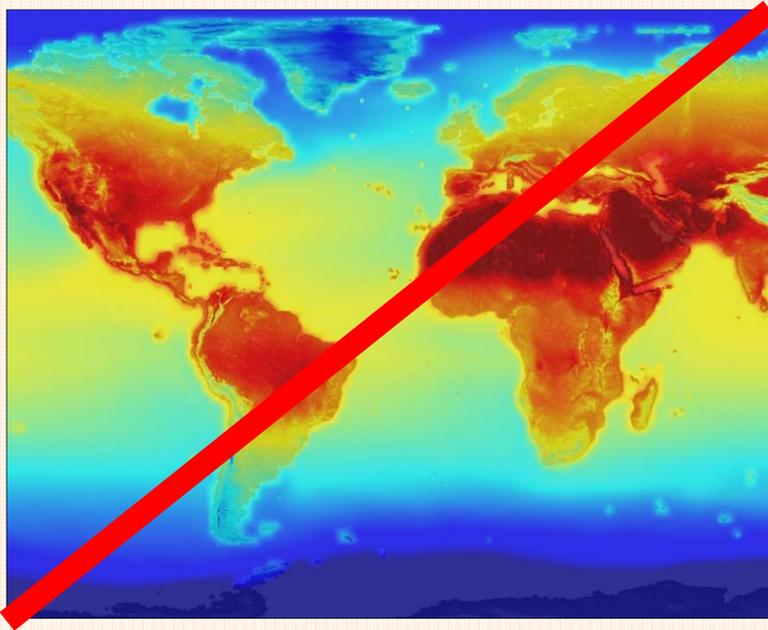
- Trump's first budget is essentially a policy statement. It is a statement of the President's priorities.
- Congress generally dismisses any President's budget proposal. They are usually greeted with the term, "Dead on Arrival." This one was no exception.
- Every program administered by a government agency is some Congressman's bacon.

# Big Picture Budget Targets

*America First: A Budget Blueprint to Make America Great Again*

- The White House proposes to increase defense spending by \$54 billion and fund that increase by reductions in non-defense discretionary spending.
- Discretionary spending is roughly 1/3 of the \$3.5 trillion Federal budget (the other 2/3 goes to entitlement programs such as Medicare and Social Security, and paying interest on the national debt).
- The 2011 Budget Control Act (BCA) caps both discretionary defense spending and discretionary non-defense spending.
- To achieve the targeted reductions in non-defense spending, the BCA needs to be repealed. This will require 60 votes in the Senate (must get eight Democrats and Independents).

# Anything to do with Climate Change is Dead Meat



- Clean Power Plan Implementation & Related EPA Programs
- National Environmental Policy Act (NEPA) Review
- DOE Programs & Research Funding
- State Department Programs
- NOAA & NASA
- Paris Agreement
- UN Program Support
- USAID

# Deconstruction of EPA

*America First: A Budget Blueprint to Make America Great Again*

- 31% cut to EPA's budget — about \$2.6 billion (from \$8.3 billion to \$5.7 billion). 21% reduction in EPA's workforce (3,200 jobs) through buy-outs and layoffs.
- EPA's enforcement office would see its budget cut by 24% (\$129 million).
- Office of Research and Development would lose up to 48% of its budget (\$233 million).
- Discontinues funding for CPP, international climate programs, climate research and partnership programs, and related efforts (over \$100 million).
- Reduces Superfund funding by 30% (\$330 million).
- Expands funding for critical drinking and wastewater infrastructure, including \$2.3 billion for Clean Water State Revolving Funds.

# Deconstruction of EPA (and State Environmental Activities)

- Eliminates more than 50 EPA programs, saving \$347 million. This includes: Energy Star, Targeted Airshed Grants, the Endocrine Disruptor Screening Program, and infrastructure assistance to Alaska Native Villages and the Mexico Border.
- 45% cut in Categorical Grants to states. This funding level eliminates or substantially reduces Federal investment in State environmental activities that go beyond EPA's statutory mandates (\$482 million reduction).
- Eliminates funding for specific regional efforts such as the Great Lakes Restoration Initiative, the Chesapeake Bay Program, and other regional programs saving \$427 million.
- NOTE: More than 90% of EPA programs are carried out by state environmental regulators.

# Regulatory Pushback

- Rescinding regulations is very difficult. It needs people in place at the agency level. It can't be done out of the West Wing.
- Regulations are created with notice and comment rulemaking.
- Their repeal or modification requires notice and comment rulemaking, and exposure to lawsuits.
- Government bears the burden to show why a regulation was incorrect or inappropriate, subject to the court demanding that such changes are not "arbitrary and capricious." It will be time consuming.
- Under Supreme Court precedent, new administrations cannot rescind regulations with the stroke of a pen.
  - Motor Vehicles Manufacturers Association v. State Farm Mutual Automobile Insurance Co.
  - Federal Communication Commission v. Fox Television Stations Inc.
- But delaying tactics can stop a regulation from being fully implemented. Not enforcing a regulation works to some extent but increases exposure to lawsuits.
- States, such as California, have authority under the CAA to promulgate their own regulations.

# Clean Power Plan Pushback: How?

- Challenge EPA's GHG endangerment finding (US Supreme Court's 2007 decision in *Massachusetts v. EPA* determined that CO<sub>2</sub> is a pollutant that EPA is obligated to regulate). EPA issued an endangerment finding in 2009.
- Apply cost-benefit review such that a different policy weight on the significance of the health impacts of CO<sub>2</sub> that could involve ratcheting back the consideration of CO<sub>2</sub>'s global impacts to a more traditional Clean Air Act consideration.
- Scale back the social cost of carbon (SCC) metric, e.g., by removing global benefits of GHG cuts from cost-benefit review, by administrative action or legislation prohibiting its application without prior authorization.
- Tight statutory deadlines imposed by the Clean Air Act may force EPA into a "Sue-and-Settle" mode to avoid influence of courts.
- Other option: Adjudicate a new CPP rule based on the more limited requirements to reasonably achievable inside-the-fence measures.

# Refocusing DOE

*America First: A Budget Blueprint to Make America Great Again*

- Eliminates the Advanced Research Projects Agency-Energy (ARPA-E), Title 17 Innovative Technology Loan Guarantee Program, and the Advanced Technology Vehicle Manufacturing Program.
- Reduces by \$900 million funding for Office of Science (SC) spending on technology-specific research.
- Reduces by \$2 billion funding for the Office of Energy Efficiency and Renewable Energy, the Office of Nuclear Energy, the Office of Electricity Delivery and Energy Reliability, and the Fossil Energy Research and Development Program.
- Eliminates the Weatherization Assistance Program and the State Energy Program to reduce Federal intervention in State-level energy policy and implementation.

# Refocusing DOE

*America First: A Budget Blueprint to Make America Great Again*

- Supports the Office of Electricity Delivery and Energy Reliability's capacity to carry out cybersecurity and grid resiliency activities.
- Provides \$120 million to restart Yucca Mountain.
- 11% increase for the National Nuclear Security Administration (refurbish and modernize nuclear weapons).
- \$6.5 billion to advance nuclear waste cleanup efforts.
- Overall, Trump has requested \$28 billion for DOE, down \$1.7 billion — or 5.6% — from current spending levels.

# But ...“What’s past is prologue.”

*The Tempest, Wm. Shakespeare*



- Reagan campaigned on a promise to abolish DOE. His nominee as Energy Secretary, James Edwards, vowed to “work myself out of a job.” It didn’t happen but DOE’s budget was cut by over 30% -- energy programs were cut by over 40%.
- Reagan’s nominee to head EPA, Anne Gorsuch, reduced the agency’s budget by over 20%. It has stayed more or less \$10 billion ever since.

# Impediments to Trump's Goals to Revive the Coal Industry

- For the foreseeable future, coal cannot compete with cheap natural gas; other Trump policies will tend to keep it cheap.
- Many coal-fired power plants are old and near retirement regardless of recent regulations or the economics of coal firing.
- Utilities are not inclined to switch from natural gas back to coal.
- Export potential of Appalachian/Midwestern coal is very problematic.
- States decide fuel choices of jurisdictional utilities.

# Other Considerations

- Trump's hardline foreign policies are likely to raise global oil prices, which would further stimulate domestic production.
- The Production Tax Credit (PTC) for wind and Investment Tax Credit (ITC) for solar are locked in until phase out periods begin in 2021 and 2020, respectively. Bipartisan support is likely to protect these incentives.
- Nuclear and other forms of baseloaded power plants need substantial subsidies to survive. Will the Trump Administration (and Congress) be amenable to these subsidies?
- The President's focus on job creation is at odds with some of the proposed budget cuts. This may be an excuse to pivot back.

# Federal Energy Regulatory Commission

- FERC is operating without a quorum. Trump can nominate three Republicans right now. And an Independent or Democrat this coming summer.
- ELCON message to new commissioners:
  1. Order No. 1000 is a “regulatory” problem that needs fixing. Must restore “beneficiary pays” as guiding principle for transmission cost allocation. Must also reverse FERC decision to allow fixed cost recovery in the energy charge.
  2. Recent FERC actions would allow certain manufacturing operations to be under the control of system operators.
  3. FERC price formation dockets are finding questionable excuses for shifting price risk to end-use consumers.

Visit ELCON's new website: [www.elcon.org](http://www.elcon.org)

