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Trump's "national energy emergency" explained

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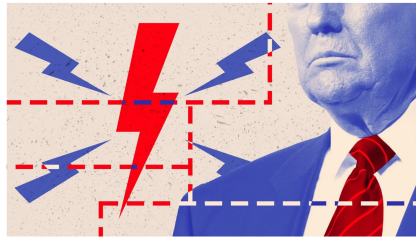


Photo Illustration: Sarah Griffin/Axis. Photo: Rebecca Noble/Getty Images

President Trump's intent to declare a national energy emergency unlocks largely untested federal authorities to keep fossil fuel and nuclear power plants online.

Why it matters: The executive order expected later Monday sets the stage for an important theme of his second term: that rising energy demand requires fossil fuels and nuclear.

- The emergency will be among the first priorities for a national energy council that sits at the nexus of agencies carrying out a flurry of Trump executive orders and rolling back Biden climate regulations.
- "We will drill, baby, drill," Trump said in his inauguration speech. "We will be a rich nation again, and it is that liquid gold under our feet that will help to do it."

The big picture: The emergency declaration will cite high energy prices and rising demand from AI as a pretext to "unlock a variety of different authorities that will enable our nation to quickly build again," an incoming administration official said at a briefing.

- "Curtailling our energy production by design through policy under the previous administration is an unnecessary burden on the exercise of our foreign policy abroad," said the incoming official, who spoke on condition of anonymity.

Zoom in: Trump and his new energy council will likely "use whatever authority he has to prevent fossil fuel, coal, nuclear, gas generation from continuing to close prematurely," said Bill Scherman, a partner at Vinson and Elkins and former FERC general counsel.

- Senate EPW Chair Shelley Moore Capito [told](#) EPA pick Lee Zeldin last week that a recent [NERC report](#) found that more than half of the U.S. could experience rolling blackouts in the next decade because of the lack of reliable power capacity.
- She cited power plants' expected retirements, along with a 50% surge in electricity demand over the next decade, for the heightened reliability risk.
- "This demand cannot be met" solely with wind and solar, she said.

That mirrors an argument that Interior nominee Doug Burgum made several times during his [confirmation hearing](#): The IRA is fueling too much renewables development at the expense of coal, natural gas and nuclear.

- "Right now, we've stacked the deck where we are creating roadblocks for people that want to do baseload, and we've got massive tax incentives for people that want to do the intermittent and unreliable," he said.

Between the lines: The president has authority under the Defense Production Act to accelerate U.S. industries in a crisis.

- Biden [invoked](#) the wartime law in 2022 to boost energy technologies like solar, heat pumps, and power grid components.
- The DOE also has [emergency authority](#) to keep plants running, often used temporarily during extreme weather events.
- Regional grid authorities can require certain plants to run for reliability purposes. But they can't override legal settlements between the plant operator and a state or environmental group (as in the case of [PJM seeking](#) to stop a Baltimore-area coal plant from shuttering.)

Reality check: The federal powers will run into thorny legal issues, as states and localities generally have oversight over power plant planning and permitting.

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- "The case for an emergency seems a bit attenuated," said Mary Anne Sullivan, partner at Hogan Lovells who was DOE general counsel under former President Clinton.
- "The executive branch cannot just make stuff up without running the risk of being found in litigation to have acted arbitrarily and without a factual basis in the record," she said, citing the lack of actual grid shortfalls.
- Grid expert Rob Gramlich said the move would represent a "massive new federal intervention" into power generation, which states and localities generally oversee.
- "Imagine being forced to keep open a store that is losing money," said Gramlich, president of Grid Strategies LLC. "I would be pretty mad at the federal government."

What's next: Specific details about the energy council's staffing and how it will interface with other formal offices in the White House have been sparse.

- Sen. Kevin Cramer said there's "been some movement" and that National Economic Council Director Kevin Hassett will be "helping lead the charge" in organizing the energy group.

Our thought bubble: For a model of what the council could do, it's worth looking back at the George W. Bush-era National Energy Policy Development Group led by then-Vice President Cheney.

- Its [recommendations](#) "very significantly influenced the evolution of energy policy," which ultimately led to the 2005 Energy Policy Act, said Alex Flint, who worked on that bill as a Senate staffer and is now executive director of Alliance For Market Solutions.
- For Trump's council, it's one thing to coordinate agency actions. The bigger question, Flint said, is whether it can make recommendations that "drive changes in statute."

