

Mitchell, Williams, Selig, Gates &amp; Woodyard, P.L.L.C.

# Federal Power Act/The Department of Energy's Emergency Authority: Congressional Research Service Report



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The Congressional Research Service (“CRS”) published a report titled:

*Federal Power Act: The Department of Energy’s Emergency Authority* (“Report”).

The Report is authored by Ashley J. Lawson of CRS. See R48568.

The Federal Power Act (“FPA”) is arguably the primary federal statute regulating the wholesale transmission and sale of electric power. See 16 U.S.C. § 791 et seq.

Section 202(c) of the FPA provides that during the continuance in which the United States is engaged, or when an emergency exists by reason of a sudden increase in the demand for electric energy, or a shortage of electric energy or of facilities for the generation or transmission of electric energy, or of fuel or water for generating facilities, or other causes, the Secretary of Energy may require by order temporary connections of facilities, and generation, delivery, interchange, or transmission of electric energy as in its judgment will best meet the emergency and serve the public interest.

In other words, it can in certain circumstances supersede other federal or state laws for up to 90 days if necessary to address a shortage of electricity.

The CRS Report states that actions by the Trump Administration utilizing 202(c) have:

... highlighted this authority and raised questions about its future implementation.

Those actions have included recent utilization of the 202(c) provision.

The Report discusses:

- History of Section 202(c).
- United States Department of Energy Implementation (listing events for which DOE has issued Emergency Orders from 2000 through 2025).
- Trump Administration Actions (including a discussion of Executive Order 14262 [Strengthening the Reliability and Security of the United States Electric Grid]).
- Issues for Congress (asking whether Congress should evaluate whether DOE’s existing regulations would benefit from streamlining and, if Congress determines they do, could provide policy direction and set a timeline for updating the regulations).

A copy of the CRS Report can be found [here](#).