



BY REBECCA C. FURDEK

More Executive Orders, Deregulation, and Targeted Enforcement: 2025 in Review



The first year of the second Trump administration, beginning in mid-January 2025, included notable developments in the areas of federal regulatory and enforcement actions. This article discusses the landscape of some of the most significant developments for lawyers.





Every change in presidential administration leads to shifts in regulatory and enforcement priorities, and the first year of the second Trump term did not alter that trend. While the number of notable developments in the last year could fill this entire issue, many that impact Wisconsin businesses and institutions can be grouped into three general trends: 1) increasing use of executive orders (EOs) to establish policy priorities; 2) emphasizing deregulation across federal agencies; and 3) steering white-collar enforcement toward “focus, fairness, and efficiency,” including in the hot-button areas of market integrity, healthcare, and “waste, fraud, and abuse” of federal funds. This article further explores these trends and suggests how lawyers can best assist clients in the year ahead.

Explosion of EOs

One near-seismic development in 2025 was the rapid escalation in President Trump using EOs to set federal policy. EOs are signed declarations by the president that order federal agencies to take specific actions to execute federal law, and President Trump issued a staggering 225 last year¹ – a total already higher than in the *entire* first Trump term (220 EOs)² and an increase of more than 1000% over 2024 levels.³ While some EOs were deregulatory in nature, others established sweeping administrative frameworks or were otherwise highly consequential – ranging from EOs concerning federal fund disbursement to institutions, to “diversity, equity, and inclusion” (DEI) initiatives, to specific law firms’ engagement with the federal government.

Unlike legislation, EOs neither require Congressional approval nor can be overturned by Congress: Only a sitting president may overturn an existing EO through issuing another EO. However, they may be challenged – and ultimately struck down – if a court finds that the president lacked authority to issue the EO or if the EO otherwise is unconstitutional. In fact, 358⁴ lawsuits were filed in 2025 challenging presidential actions, many of which pertained to EOs. Many such challenges remain pending, with resolutions likely in 2026.

For example, on Feb. 20, 2026, the U.S. Supreme Court ruled on legal challenges brought by state attorneys general and businesses to EOs that imposed largely global “reciprocal” tariffs, as well as

those specific to Canada, China, and Mexico, pursuant to the International Emergency Economic Powers Act (IEEPA).⁵

As another example, also in February 2026, the U.S. Court of Appeals for the D.C. Circuit consolidated four pending appeals of federal district court rulings blocking enforcement of EOs targeting individual law firms.⁶ These EOs directed federal agencies to, among other things, order the suspension of security clearances for firm employees, generally refrain from hiring employees of such law firms, and scrutinize or altogether rescind governmental contracts with such firms.

A U.S. Supreme Court decision released in June 2025 drastically affected the types of challenges that may be brought in response to an EO. In *Trump v. CASA*, the Court ruled that with limited exceptions, federal district courts cannot generally issue universal – or nationwide – injunctions.⁷ As a result, a single federal judge is no longer empowered to halt or block enforcement of a federal policy nationwide. This decision struck a major blow to challengers of Trump administration policies seeking swift, universal relief; the Court majority highlighted that approximately 25 universal injunctions were issued in only the first 100 days of the second Trump term.⁸ The Court signaled likely limited avenues for future plaintiffs to obtain nationwide relief, such as through class actions or through the Administrative Procedure Act (APA) “set aside” mechanism.⁹ While *Trump v. CASA* probably is a net victory for the executive branch, actions in 2026 may shed more light on the viability of these limited, remaining avenues for individuals, businesses, and state AGs seeking to halt enforcement of an EO or a federal policy.

More broadly, the rise in EOs presents both opportunities and challenges for Wisconsin counsel and their clients. On one hand, this trend presents an increasingly fast-paced template for future administrations to follow: a president could quickly undo many such EOs and reverse course. Such policymaking via EO would lead to less long-term certainty for affected businesses and individuals, for better or for worse. Relatedly, federal policies increasingly set forth in this manner may present at first glance simple legal frameworks with which to comply but ultimately more ambiguity for those regulated. Regardless, Wisconsin attorneys should stay apprised of these federal policy directives and corresponding legal challenges as this trend continues.¹⁰



Deregulation

Although some people might assume that the sharp uptick in EOs suggests increased regulation, the Trump administration has instead advanced the broad goal of agency deregulation. On Jan. 31, 2025, the White House released EO 14192, Unleashing Prosperity Through Deregulation, which requires federal agencies to identify at least 10 prior regulations for elimination for each new regulation issued, with the stated goals of lowering the \$2.1 trillion annual cost of federal regulations and reducing burdens for small businesses.¹¹ This EO is essentially a more aggressive version of EO 13771 in the first Trump term, which sought to eliminate two existing regulations for every new one passed.¹²

The administration announced in December that in 2025, it finalized 646 deregulatory actions compared to only 5 regulatory actions, for a ratio of 129-1.¹³ This result reveals the volume of agency publications beyond traditional regulations, which generally require formal notice-and-comment rulemaking, including a public comment period, both to pass and to rescind. A proposed repeal of a regulation generally takes months – if not years – to effectuate.

Notably, though, a presidential memorandum issued in April 2025, Directing the Repeal of Unlawful Regulations, explicitly encouraged agencies to bypass this process when consistent with the “good cause” exception in the Administrative Procedure Act (APA).¹⁴ In addition, federal agencies issue a plethora of subregulatory guidance



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interpreting regulations. The definition of “regulation” or “rule” in EO 14192 appears to capture this subregulatory guidance by including “memoranda, administrative orders, guidance documents, policy statements, and interagency agreements.”¹⁵ These regulatory actions can be rapidly issued – or withdrawn – by agencies and without directly considering public input. Therefore, the December announcement suggests that many such subregulatory documents have been withdrawn, with more regula-

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tion repeals on the horizon, particularly if agencies bypass the APA process.

Also in December 2025, the U.S. Small Business Administration (SBA) launched a Deregulation Strike Force, with the stated purpose of identifying and eliminating regulations that disproportionately increase costs for small businesses and consumers across the “housing, healthcare, agriculture, and energy” sectors.¹⁶ The SBA plans to “solicit[] feedback from small businesses to identify the most burdensome regulations across key industries” in 2026 and focus on cutting regulations across a range of industries, including housing and construction, healthcare, agriculture, energy, and transportation.

This deregulatory focus across agencies extends into criminal enforcement as well. EO 14294, Fighting Overcriminalization in Federal Regulations, issued in May 2025, states the premise that the “United States is drastically overregulated,” citing the 48,000 sections of the Code of Federal Regulations (CFR) exceeding 175,000 pages as an “absurd and unjust” circumstance that “can lend itself to abuse and weaponization by providing government officials tools to target unwitting individuals.”¹⁷ Among other things, EO

14294 provides that strict-liability offenses, which do not require the government to prove a defendant’s intent, are “generally disfavored” and should be addressed through civil or administrative enforcement. The EO also orders each agency to publish annually all enforceable criminal regulatory offenses, as well as the penalty range and corresponding *mens rea* standard. Further, agencies are “strongly discouraged” from engaging in criminal enforcement for offenses not on that list.

This deregulatory emphasis likely will have more effects across agencies in 2026. As noted above, federal regulations generally require a significant length of time to repeal, although subregulatory guidance might continue to be quickly withdrawn. Attorneys should monitor proposed rules seeking to rescind or modify federal regulations, as well as the SBA’s invitation for business community input, because these may be opportune times to encourage clients to share their concerns directly or through a trade association. In addition, because federal agencies will be required to make their first online posting of all criminal regulatory offenses in May 2026, it will become more important to ensure that clients are aware of federal regulations that include criminal penalties, as the added online transparency may carry a greater expectation of public awareness by the U.S. Department of Justice (DOJ) going forward.

Emphasis of “Focus, Fairness, and Efficiency” in Corporate or White-collar Enforcement

On May 12, 2025, the DOJ’s Criminal Division published a memo stating that “overbroad and unchecked corporate and white-collar enforcement burdens

U.S. businesses and harms U.S. interests,” emphasizing that future enforcement would promote “focus, fairness, and efficiency” overall for companies and individuals investigated.¹⁸ Three such areas emerged in 2025 as particularly prominent in the corporate or white-collar enforcement space: 1) market integrity, 2) healthcare, and 3) efforts to eliminate “waste, fraud, and abuse.” Each is explored in turn.

Market Integrity. The word “tariffs” couldn’t be avoided by even the most casual news observer in 2025, as President Trump’s EOs and policy pronouncements concerning international trade have reverberated across industries. Not surprisingly, the DOJ has also emphasized international trade as part of a broader “market integrity” focus in 2025.

As perhaps the most tangible indicator of its focus, the DOJ recently consolidated resources from both the Civil and Criminal Divisions to create a new

Market, Government, and Consumer Fraud Unit (MGCF Unit) within the Criminal Division’s Fraud Section, placing an even more explicitly pronounced focus on tariff- and trade-related offenses, in addition to market-related areas ranging from traditional market manipulation to artificial intelligence (AI).¹⁹

In addition, in August 2025, the DOJ and the Department of Homeland Security (DHS) established a cross-agency Trade Fraud Task Force to investigate and enforce international trade-related violations.²⁰ Noting that “American manufacturers and American workers are at the heart of this Administration’s trade policy,” the DOJ wrote that it “welcomes referrals and cooperation from the domestic industries that are the most harmed by unfair trade practices and trade fraud,” encouraging such submissions through its corporate whistleblower program.

Similarly, in September, the U.S.

Securities and Exchange Commission (SEC) established a new Cross-Border Task Force to strengthen and enhance efforts to combat cross-border fraud harming U.S. investors, focusing “initially on investigation of potential U.S. federal securities law violations related to foreign-based companies, including potential market manipulation.”²¹

While international in scope, this trend still affects any Wisconsin business with a broader reach in international financial markets or companies, such as manufacturers relying on imports or financial institutions engaged with foreign issuers. Counsel should ensure that affected clients prioritize maintaining robust internal controls to detect and remediate any potential problems, monitor DOJ policy updates and related executive branch actions, and in the event of a potential violation, consider voluntary self-disclosure and cooperation.

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Healthcare. Healthcare has long been a top area of enforcement by the DOJ, and this past year was no different. In June 2025, the DOJ announced the largest healthcare fraud enforcement action in U.S. history, charging 324 defendants with more than \$14.6 billion in alleged fraud.²² The named defendants included physicians, nurse practitioners, and pharmacists, among others, and represented notable cooperation among dozens of federal agencies, U.S. Attorney's Offices, and state AG offices. Relatedly, in the most recent fiscal year, a record \$5.7 billion of the \$6.8 billion recovered in False Claims Act (FCA) actions (a topic covered more fully in the section below) related to healthcare, and specifically managed care, prescription drugs, and medical-necessity determinations.²³

DOJ initiatives and public remarks by DOJ officials have reinforced this healthcare focus. For example, in July 2025, the DOJ and the U.S. Department of Health and Human Services (HHS) announced the creation of the DOJ-HHS False Claims Act Working Group, an initiative aimed at strengthening federal government FCA enforcement in the healthcare area.²⁴ In September, Matthew Galeotti, head of the DOJ's Criminal Division, again emphasized that healthcare fraud is a key priority area, stating that the DOJ "expect[s] to see even more health care fraud-related corporate resolutions in the coming months."²⁵

For any Wisconsin counsel with healthcare clients, particularly those interacting with federal programs such as Medicare or Medicaid, it is increasingly important to ensure that clients are aware of and comply with all current laws and regulations and maintain strong compliance programs and appropriate documentation. Counsel also should monitor federal enforcement announcements and publicly available settlements in 2026 because these may signal emerging areas of focus.

Waste, Fraud, and Abuse. The words "waste," "fraud," and "abuse" have

formed a repeated refrain since the earliest days of the Trump administration, when the U.S. Department of Government Efficiency (DOGE) initiative was launched.²⁶ Although DOGE no longer is a dominating force, the phrase and the focus remain as a key driver of federal enforcement in early 2026. Indeed, in January, a new DOJ division was formed to focus on national fraud enforcement following the initiation of federal welfare fraud investigations in Minnesota. While many details of that new division are yet to be announced, the press release accompanying the announcement (including the phrase "fraud, waste, and abuse") indicated that it will focus on enforcing laws "targeting Federal government programs, Federally funded benefits, businesses, nonprofits, and private citizens nationwide," including through proposing "legislative and regulatory reforms to close systemic vulnerabilities and prevent future abuses."²⁷

Any summary of this enforcement trend requires discussion of the FCA.²⁸ The FCA is a federal statute, passed in the wake of the Civil War, that imposes civil liability on entities or individuals who knowingly submit false or fraudulent claims to the government for payment – ranging from healthcare program claims and traditional defense contracts to misrepresentations in connection with obtaining government grants or funding. According to the DOJ's most recent annual report, released in January, the FCA remains one of the DOJ's most frequently used enforcement tools, with settlements and judgments exceeding a record \$6.8 billion in the last fiscal year. Interestingly, last year's total marked a sharp reversal of three straight years of significantly lower recoveries ranging from approximately \$2 billion to \$3 billion.²⁹ The DOJ previewed in that report that there is likely to be an even higher volume of FCA cases in 2026.

One prominent feature of the FCA is its *qui tam* (whistleblower) provision,

which enables private individuals, or "relators," to file lawsuits "on behalf of" the United States, with the potential promise of enjoying a share of the proceeds when the case is ultimately resolved. However, in late 2024, in *United States ex rel. Zafirov v. Florida Medical Associates LLC*, a Florida federal district judge ruled that the FCA's *qui tam* provisions violate Article II of the U.S. Constitution.³⁰ The case is currently pending before the Eleventh Circuit Court of Appeals, and given competing judicial opinions on the issue, it is widely anticipated that the issue of *qui tam* constitutionality will reach the U.S. Supreme Court. Nevertheless, in the meantime, the DOJ has continued to expressly note the importance of *qui tam* whistleblower referrals to the DOJ's broader enforcement goals.³¹

While a significant amount of the DOJ's FCA enforcement focuses on healthcare, it extends to initiatives affecting a wide range of Wisconsin businesses, from COVID-19 pandemic fraud to DEI-focused inquiries. On the pandemic fraud front, the DOJ continues to investigate alleged fraud related to Paycheck Protection Program (PPP) loans and the associated loan forgiveness process. To illustrate the magnitude of the issue, in 2023, the U.S. Government Accountability Office "flagged" 3.7 million loans as having "warning signs consistent with potential fraud,"³² and the SBA's inspector general estimated that up to \$200 billion in pandemic relief was issued to "potentially fraudulent actors."³³ In light of a 10-year statute of limitation, the DOJ has aggressively targeted alleged fraud related to pandemic-era loans, often using the FCA to do so – with hundreds of millions recovered last year alone.³⁴

As for DEI-focused inquiries, in May 2025, the DOJ announced its Civil Rights Fraud Initiative (CFRI), which will "utilize the False Claims Act to investigate and, as appropriate, pursue claims against any recipient

of federal funds in knowing violation of federal civil rights laws.”³⁵ Citing the U.S. Supreme Court’s decision in *Students for Fair Admissions v. Harvard*,³⁶ which struck down race-based affirmative action programs as violating the Equal Protection Clause of the 14th Amendment to the U.S. Constitution, and EO 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity, the CFRI provides that the FCA might apply to the extent federal funding recipients falsely certify compliance with civil rights laws while knowingly “engaging in racist preferences, mandates, policies, programs, and activities, including through diversity, equity, and inclusion (DEI) programs that assign benefits or burdens on race, ethnicity, or national origin.”³⁷ Recent media reports indicate that several DEI-related FCA investigations are underway. For example, a recent *Wall*

Street Journal article indicated that the DOJ sent civil investigative demands (CIDs) to Google and Verizon and that “industries ranging from automotive and pharmaceuticals to defense and utilities” are among those being scrutinized.³⁸

This year is bound to bring continued significant focus by the federal government on identifying instances of alleged waste, fraud, and abuse nationwide. Wisconsin counsel should ensure that any clients that receive federal funds or grants – ranging from educational institutions, to manufacturers, to small businesses that previously obtained pandemic relief – review all applicable policies, practices, and documentation for potential areas of risk. In addition, as to the CFRI Initiative in particular, institutions and companies should note that the DOJ is “strongly encourag[ing] anyone with knowledge

of discrimination by federal funding recipients to consider filing a qui tam action under the False Claims Act.”³⁹

Conclusion

The second Trump term started with a splash in both the federal regulatory and enforcement arenas, and so far in 2026, there are no signs of slowing down. Whether through announcing federal policies in a flurry of EOs, slashing the number of subregulatory guidance documents, or targeting enforcement in key areas, regulatory and enforcement activity is strong despite broader deregulatory goals. More defined trends likely will emerge in this second year of the second Trump term, and counsel should remain well informed of these often-rapid developments in advising clients during the year ahead. **WL**



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