

# The Presidential Dimension of Regulatory Dark Matter: Executive Orders and Memoranda

Executive orders, presidential memoranda, and other executive actions make up a large component of executive “lawmaking.” They merit attention from lawmakers, since they can have, or appear to have, binding effect and influence private behavior.<sup>437</sup> Executive orders ostensibly deal with the internal workings and operations of the federal government, and presidents have traditionally been presumed able to overturn those issued by their predecessors. Their use is not new, dating back to President George Washington’s administration.<sup>438</sup> Since the nation’s founding, presidents have issued more than 15,582 executive orders (see Table 4). However, their reporting and numbering have not been consistent until recent decades.

Biden’s 77 executive orders in 2021 were the most seen in recent decades. Sixteen issued by Trump in the final weeks of his term in January brought the total for 2021 to 93 (see Figure 16). Trump had issued 68 executive orders in 2020, the highest level in 25 years, outstripping anything since 2001’s high-water mark of 67 (as a transition year, 2001 included 14 Clinton orders and 53 Bush ones). Trump had issued 63 in 2017, 47 in 2019, and 35 in 2018.<sup>439</sup>

President Obama’s executive order totals, “pen-and-phone” directives notwithstanding, were not high compared with those of other presidents. At the end of his term, Obama had issued 276 executive orders, whereas

Table 5. Executive Orders by Administration

	Sequence Number		Total Number of Executive Orders
	Ending	Beginning	
George Washington	n/a	n/a	8
John Adams	n/a	n/a	1
Thomas Jefferson	n/a	n/a	4
James Madison	n/a	n/a	1
James Monroe	n/a	n/a	1
John Quincy Adams	n/a	n/a	3
Andrew Jackson	n/a	n/a	12
Martin van Buren	n/a	n/a	10
William Henry Harrison	n/a	n/a	0
John Tyler	n/a	n/a	17
James K. Polk	n/a	n/a	18
Zachary Taylor	n/a	n/a	5
Millard Fillmore	n/a	n/a	12

	Sequence Number		Total Number of Executive Orders
	Ending	Beginning	
Franklin Pierce	n/a	n/a	35
James Buchanan	n/a	n/a	16
Abraham Lincoln	n/a	n/a	48
Andrew Johnson	n/a	n/a	79
Ulysses S. Grant	n/a	n/a	217
Rutherford B. Hayes	n/a	n/a	92
James Garfield	n/a	n/a	6
Chester Arthur	n/a	n/a	96
Grover Cleveland - I	n/a	n/a	113
Benjamin Harrison	n/a	n/a	143
Grover Cleveland - II	n/a	n/a	140
William McKinley	n/a	n/a	185
Theodore Roosevelt	n/a	n/a	1,081
William Howard Taft	n/a	n/a	724
Woodrow Wilson	n/a	n/a	1,803
Warren G. Harding	n/a	n/a	522
Calvin Coolidge	n/a	n/a	1,203
Herbert Hoover	6,070	5,075	996
Franklin D. Roosevelt	9,537	6,071	3,467
Harry S. Truman	10,431	9,538	894
Dwight D. Eisenhower	10,913	10,432	482
John F. Kennedy	11,127	10,914	214
Lyndon B. Johnson	11,451	11,128	324
Richard Nixon	11,797	11,452	346
Gerald R. Ford	11,966	11,798	169
Jimmy Carter	12,286	11,967	320
Ronald Reagan	12,667	12,287	381
George H.W. Bush	12,833	12,668	166
William J. Clinton	13,197	12,834	364
George W. Bush	13,488	13,198	291
Barack Obama	13,764	13,489	276
Donald Trump	13,984	13,765	220
Joe Biden	14,061	13,985	77
<b>Total Number of Executive Orders</b>			<b>15,582</b>

Source: Author's tabulations; Executive Orders Disposition Tables Index, Office of the Federal Register, National Archives, <http://www.archives.gov/federal-register/executive-orders/disposition.html>; "Executive Orders," The American Presidency Project, ed. John T. Woolley and Gerhard Peters (Santa Barbara, CA: 1999–2014), <http://www.presidency.ucsb.edu/data/orders.php>.

n/a = not applicable or not available.