

# The First 100 Hours: The Biden White House Begins Environmental Push

## Related Professionals

Michael Traynham  
803.540.2164  
MTraynham@nexsenpruet.com

## Practices

Environmental Law

## Article

01.25.2021

Describing the first four days of the Biden Administration as a “shift” away from the Trump environmental platform is a little like describing the Boston Marathon as a local footrace. President Biden has issued a slew of executive orders in his first week in office, many aimed directly at dismantling Donald Trump’s entire environmental agenda. Below, we briefly outline some of these executive orders and what they may presage for the first 100 days (and beyond) of the Biden Presidency.

## Regulatory Freeze Pending Review

- Withdraws any rule submitted to the Office of the Federal Register, but not yet finalized, pending review by an agency or department head appointed by President Biden.
- Postpones the effect of any final published rules not yet gone into effect, and requiring review of those rules in the interim.

While this Executive Order does not explicitly call out any environmental policies or actions of the prior administration, several environmental rulemakings from the Trump administration were near finalization and will be impacted by this order.

## Executive Order on Protecting Public Health and the Environmental and Restoring Science to Tackle the Climate Crisis

- Establishes a policy promoting the integrity of scientific input to federal decision-making (in particular where environmental impacts are concerned) and directing all executive agencies and departments to immediately review all regulations promulgated and other actions taken during the prior administration that are inconsistent with this policy.
- Specifically calls for agency heads to consider suspended, revising, or rescinding (i) Oil and Gas Sector Emission Standards for New,

Reconstructed, and Modified Sources Reconsideration; (ii) SAFE Vehicles Rules; (iii) Energy Conservation for Appliance Standards; (iv) NESHAPs for Coal- and Oil-Fired Electric Utility Steam Generating Units.

- Directs the Department of the Interior to review the boundaries of National Monuments and restore them to the pre-2017 scope as appropriate.
- Establishes a moratorium on federal actions related to Oil and Gas Leasing in the Arctic National Wildlife Refuge, and a comprehensive review of the program.
- Creates a Working Group on the Social Cost of Greenhouse Gases, including the Director of OMB and the Chair of the Economic Council of Advisers, to publish estimates for the Social Costs of Carbon, NOx, and Methane, and to draft recommendations on the application of these estimates to federal decision making.
- Revokes the Keystone XL Pipeline Permit issued March 29, 2019.
- Revokes a plethora of specific executive orders and directs the Council on Environmental Quality to rescind its draft guidance on NEPA considerations of Greenhouse Gas Emissions.

In keeping with this Order, EPA has issued a letter to the Department of Justice, requesting that DOJ seek and obtain abeyances or stays in all pending litigation seeking review of EPA regulations promulgated between January 20, 2017, and January 20, 2021.

## Paris Climate Agreement

- The executive action rejoins the United States to the Paris Climate Agreement, which commits the nation to stringent reductions in GHG emissions and mutual support of the 196 adoptees of the treaty.

The impacts of these executive orders will be both deep and wide, but it is unlikely President Biden is close to done with executive actions on the environment. It is also very likely we will see a complementary push for environmental legislation in his first 100 days, particularly since Democrats control both the House and Senate. President Biden campaigned heavily on federal investment in clean infrastructure and new green jobs to address climate change. That will require congressional action. While the ripples from these executive actions will likely increase costs for compliance and obtaining federal permits in the long run, the potential opportunities from any such legislation may make it a wash for the economy as a whole. For individual regulated businesses – your mileage may vary. The first 100 hours of the new administration have already promised a very busy year to come in the environmental arena. Stay tuned.