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Biden's First 100 Days of Climate Action

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Introduction

Over the past four years, EELP closely tracked the Trump administration's environmental deregulatory efforts in our [Regulatory Rollback Tracker](#) and [EPA Mission Tracker](#) and [analyzed](#) what those efforts mean for the law, environmental protections, and our ability to address climate change.

After the 2020 presidential election, we shifted our focus to assessing what these deregulatory actions would mean for the incoming administration's goals. When President Biden took office, he quickly signaled a change in direction, issuing executive orders outlining agency mandates to address climate change, environmental injustice, and other pressing challenges. EELP reviewed these early orders and anticipated federal agency actions in our report [“Biden's Week One: Mapping Ambitious Climate Action.”](#)

Now, 100 days into the new administration, we review the progress made on those goals. In this report, we summarize the administration's progress

reviewing Trump-era rules and orders; summarize key developments regarding its environmental justice and decarbonization priorities; and highlight other important considerations, including current legal challenges and COP26. Accompanying the report is a spreadsheet in which we are tracking the progress that agencies and officials are making in meeting the deadlines outlined in Biden's early orders.

View the companion [Biden Climate Orders Progress spreadsheet here](#).

While these first few months feel like an overdue renaissance in federal environmental action, there is still a long way to go, and many legal and political barriers to confront, to make these plans a reality. At EELP, we're tracking these developments and contributing legal analysis to help move us towards a cleaner environment and more equitable, less carbon-intensive economy.

For regular updates on this work, subscribe to our [program](#) and [regulatory tracker](#) newsletters.

Addressing Trump's Rule Rollbacks

The Biden-Harris administration took office armed with a list of priority items for review. The transition teams closely reviewed Trump-era regulatory actions, making it possible for President Biden to start his term with clear direction to agencies on how to



address Trump's deregulatory legacy. In EO 13990, signed on his first day in office, Biden listed specific regulations for agencies to review and consider revising, suspending, or rescinding in addition to a broad mandate to review all regulatory actions taken by the Trump administration. In EO 13990 and other environmental and climate directives issued in his first week, Biden also identified specific actions to start planning for and implementing the administration's goals, creating new task forces and requesting reports from numerous agencies to help inform the development of the administration's proactive climate, jobs, and environmental justice agenda. (For an overview of these and other mandates included in Biden's Week One Executive Orders, visit our [Week One page](#).)

Tracking Biden's directives: We have [created a spreadsheet](#) with all of the environmental and climate-related deadlines in the orders Biden issued in his first week. Here, we are tracking the progress that agencies and officials are making in meeting those deadlines. The first sheet includes the specific rules named in the January 20th EO 13990 (among other directives from this and the other week one orders); the second lists all of the rules in the companion [List of Agency Actions for Review](#); and the third identifies Trump rules or guidance that agencies have already proposed revising or rescinding but which were not specifically listed in the order or accompanying List of Agency Actions for Review. We will periodically update these sheets. Sign up for our [regulatory updates email list](#) to receive alerts when we do.

Rules Named in the EOs

EO 13990 named **fourteen rules** that agencies needed to review by specific deadlines. Of the fourteen rules named, six were **energy efficiency rules** that the Department of Energy is in the process of reviewing. DOE has proposed a revised rule on consumer products, commercial/industrial equipment, and appliance standards. It has also published a preliminary analysis of building efficiency standards. The remaining energy efficiency rules mentioned are included in a longer list of thirteen rules that the DOE Office of Energy Efficiency and Renewable Energy (EERE) noted it is considering revising in a Feb. 19, 2021 memorandum. In addition to the energy efficiency rules, agencies have taken the following actions on other rules listed in EO 13990:

- EPA sent a final rule to rescind the Trump **CAA cost benefit analysis** rule to OMB, which completed its review of the rule on May 10, 2021. See more about this rule in Hannah Perls' analysis of the [cost-benefit rule's impacts on EPA rulemaking here](#).
- EPA's "**secret science**" rule was vacated by a federal court and remanded to EPA for reconsideration at EPA's request. EPA submitted the final vacatur rule to OMB for review on April 7, 2021. See more about this rule in Hannah Perls' analysis of the [vacatur here](#).
- Congress has begun the process of nullifying the rule that eliminated **methane emissions standards for new oil and gas sources** (the Review Rule) through a Congressional Review Act resolution that passed the Senate on April 28,



2021 (S.J. Res. 14). It must still pass the House and be signed by the president to nullify the rule. EPA will also likely revise the companion rule issued by the Trump EPA revising VOC emissions standards (the Reconsideration Rule) through rulemaking, but has not yet proposed revisions. See more on the history of this rollback on our [EPA VOC/Methane Oil and Gas Standards Rollback page](#).

- Biden's EO directed EPA to propose **greenhouse gas standards for existing oil and gas sources** by September 2021. The agency has not yet released a proposal. See more on the history of this rollback on our [EPA VOC/Methane Oil and Gas Standards Rollback page](#).
- Biden directed NHTSA and EPA to reconsider the revocation of **California's right to set**



greenhouse gas emission and fuel economy standards stricter than the federal standards

(SAFE Vehicles Rule Part 1). NHTSA announced a proposed rule on April 22, 2021 that has made it through OMB review but has not yet been published in the federal register. On April 28, EPA published a request for public comment on its proposal to reconsider the withdrawal of California's waiver under the CAA. The rule will likely reaffirm California's authority to set stricter vehicle emission standards under the CAA. See more about this rule on our [CAFE / GHG Standards Regulatory Rollback page](#).

- Biden also directed EPA and NHTSA to reconsider the **fuel economy standards for model years 2021-2026** (SAFE Vehicles Rule Part II). On April 2, 2021, the DC Circuit granted the Biden administration's request to stay litigation over the Trump administration's rule. See more about this rule on our [CAFE / GHG Standards Regulatory Rollback page](#).
- **NESHAP for Coal- and Oil-fired EGUs / Mercury Air Toxics Standards:** Biden directed EPA to reconsider its [April 2020 finding](#) that it was not "appropriate and necessary" to regulate hazardous air pollutants from coal- and oil-fired electric generating units. The deadline for this directive is August 2021 and EPA has not yet acted on it. See more about this rulemaking on our [MATS Regulatory Rollback Tracker page](#).
- **Ozone NAAQS Federal Implementation Plan:** Biden directed EPA to consider promulgating a Federal Implementation Plan (FIP) for states that have failed to submit state implementation plans satisfying the 2008 ozone NAAQS, specifically



California, Connecticut, New York, Pennsylvania, and Texas, by January 2022. On April 30, 2021, EPA published a final rule issuing amended FIPs for New York and Pennsylvania and accepting Texas' prior FIP as satisfying the 2008 ozone NAAQS requirements. No public action has been taken with regards to California and Connecticut. For more on this rule, see our [Cross-State Air Pollution Rule page](#).

The Biden administration has also moved forward with efforts to address **hydrofluorocarbons (HFCs)** where the Trump administration stalled progress. EO 13990 directed the Secretary of State to prepare a submittal package for Senate approval of the Kigali Amendment to the Montreal Protocol. This transmittal package was [reportedly](#) sent to the White House on March 26, 2021. EPA also issued a proposed rule on May 3 to phase down the production and use of HFCs by 85% over the next 15 years, in line with the December 2020 provision passed by Congress to require such a phase down. See more about the Trump and Biden administration's actions on [HFCs in our rollback tracker page](#).

Another rule-related priority in EO 13990 was the reinstatement of the Social Costs of Greenhouse Gases (CO₂, NO_x, and methane). The order reinstated a working group to review the numbers developed by the Obama administration, update them, and develop recommendations for how they should be used by the government. The group was tasked with publishing interim numbers for use in rulemaking processes while embarking on its more extensive updates. On Feb. 26, 2021, the administration announced [interim Social Costs of GHGs](#) that

were inflation-adjusted versions of the Obama-era numbers.

Additional Regulatory Review – Key Takeaways

In addition to identifying fourteen rules in the January 20th executive order, the White House released a [companion list of 104 Trump regulatory actions for review](#). This list did not come with corresponding deadlines. Of the 104 items included in this list, agencies have initiated action on at least 32 of them (including the items listed above). See the second sheet in our [tracking spreadsheet](#) for the complete list. Some of the most consequential actions not already mentioned above include:

- **CEQ guidance document procedures:**
On April 13, 2021 CEQ published a [final rule](#) rescinding a Trump-era rule on guidance document procedures.
- **Tongass National Forest / Roadless Rule:**
On Feb. 1, 2021 the USDA issued a [memo](#) effectively pausing road construction and timber harvesting in the Tongass National Forest, among other areas, while the Forest Service reviews these activities. For more on this rule, visit our [Alaska Roadless Rule Regulatory Rollback page](#).
- **Pollutant-Specific Significant Contribution Finding:** On March 17, 2021, EPA asked the D.C. Circuit to vacate the Jan. 13, 2021 rule and remand it to the agency.¹ The rule would

¹ California v. EPA, 21-1035 (and consolidated cases, 21-1036, 21-1063) (D.C. Cir.).



have required EPA to make pollutant-specific contribution findings before regulating emissions from a source category even if the agency has already regulated other pollutants from that source category. It also would have set a new threshold of 3% of total US GHG emissions for finding that a source category contributes significantly to dangerous air pollution. See our tracker page on [GHG New Source Performance Standards for Power Plants](#) for more history about how this rule came to be.

- **Persistent, bioaccumulative, and toxic chemicals:** On March 16, 2021, EPA [requested](#) additional comments on five rules finalized on Jan. 6, 2021 dealing with persistent, bioaccumulative, and toxic chemicals issued under TSCA.
- **Migratory Bird Treaty Act rule:** FWS published a [proposed rule on May 7, 2021](#) that would return the scope of migratory bird protections to the pre-Trump understanding by reinstating the prohibition on incidental takes of birds. The Biden administration already withdrew a DOI memorandum codifying Trump's less protective interpretation of the MBTA on March 8, 2021. For more history about this rule, see our [Migratory Bird Treaty Act Regulatory Rollback page](#).
- **Other Interior actions:** In addition to the solicitor's opinion on migratory birds, the Department of the Interior has also revoked memoranda related to the coal moratorium reversed by Trump, minerals ownership in North Dakota, and the meaning of "under federal jurisdiction" in the Indian Reorganization Act.

We do not yet know when or how the administration will address some of the most high-profile rules in the List of Regulatory Actions for Review. **EPA must chart a new path forward for controlling GHG emissions from existing power plants** after the D.C. Circuit struck down the Trump administration's ACE rule and Clean Power Plan repeal. EPA has indicated it will not revive the Clean Power Plan as promulgated under the Obama administration but has not yet proposed a new approach. (See more about the history of the Clean Power Plan and ACE rules for existing power plants on our [regulatory rollback page](#)) Similarly, the Trump-era **Navigable Waters Protection Rule** redefining "waters of the United States" in a less-protective manner has a complicated legal history and is a top priority for environmental advocates, but the administration has yet to take any public action on the rule. (See more on its history on our [Defining Waters of the United States / Clean Water Rule rollback page](#)). EPA has also delayed the effective date of revisions made during the Trump administration to the **standards for lead and copper in drinking water** and announced new public engagement efforts, likely indicating a willingness to revise the rule in a more protective manner. (See [Daniel Eyal's piece](#) on the history of this rule for more information.)

Not every rulemaking initiative started under the Trump administration has been sidelined by the new administration. The EPA is moving forward with developing regulations for **PFOA and POAS**, [re-issuing two regulatory actions](#) at the end of February that were initially released under the prior administration. EPA Administrator Regan has also created an [EPA Council on PFAS](#) consisting of senior leadership across the agency to implement plans



developed by career staff to address PFAS.

Restoring Science-based Decision-making

Over the past four years, the Trump administration [openly undermined](#) environmental agencies' scientific and expert capacities. [Particularly at EPA](#), the administration also instituted new policies and rules to exclude critical science from agency decision-making, and limit the scientific information the agency shares with the public. To address this legacy, in his first week in office, President Biden issued a series of executive orders and memos [addressing science-based decision-making](#). These documents directed both the White House's Office of Science and Technology Policy (OSTPE) and individual agencies to ensure "scientific findings" are never "distorted or influenced by political

decisions." Over the past 100 days, agencies prioritized gathering information on the myriad ways the Trump administration meddled in scientific decision-making, and have begun to signal how new policies will help repair that damage by **addressing censorship, transparency, and advisory council membership**. These efforts will be overseen by a new 46-member interagency Scientific Integrity Task Force, which Biden outlined in his January 27 [presidential memo](#). The group will have its first meeting on May 14.

EPA is already taking significant steps to implement these new priorities, starting with its own expert advisory committees. At the end of March, Administrator Regan [announced](#) he would dismiss all members of two critical EPA advisory panels - the Clean Air Scientific Advisory Council (CASAC) and the Scientific Advisory Board (SAB). In 2018, then-EPA Administrator Wheeler [removed](#) all





seven members of the CASAC, replacing them with longtime anti-regulatory advocates. Under President Trump, EPA also [removed](#) qualified academics from the SAB, arguing that any expert who received EPA funding could not serve on the Board due to a “conflict of interest,” yet imposing no parallel requirement for recipients of industry funding. The Biden EPA also [plans to restore and revamp](#) Obama-era ethics reviews for selecting scientific advisers.

EPA is also revamping its transparency policies. In mid-April, Administrator Regan [issued](#) an internal memo to EPA staff laying out new guidance on transparency, including fulfilling FOIA requests “with a clear presumption that openness prevails.” (Under President Trump, EPA [revised](#) its FOIA rules to allow political appointees to determine which documents are disclosed to the public). EPA is also reportedly [planning to issue](#) a public list of about 90 regulatory decisions made under President Trump in which political tampering may have “compromised the integrity” of agency science.

Other agencies are taking initial steps by revoking Trump-era policies and appointing new staff required by Biden’s initial orders and memos. On March 3, the **Department of the Interior (DOI)** [revoked](#) a Trump-era “open science” order, which, like the Trump [EPA’s so-called “Secret Science” Rule](#), sought to arbitrarily prevent the agency from relying on scientific studies if the underlying data are private. DOI also [began](#) a review of all actions taken pursuant to the Trump order, and a review of its own scientific integrity policies. On April 21, The **Department of Transportation (DOT)** [designated](#) a Chief Science

Officer² for the first time in 40 years, and announced plans to designate a Scientific Integrity Officer to implement the agency’s research policies.

Going Beyond Repair, A “Whole of Government” Approach

The Biden administration is not only addressing specific deregulatory actions from the Trump administration, it is also preparing new initiatives. President Biden talks about his plans for climate action as a “whole of government” approach. The administration’s early efforts to integrate climate change considerations into its work signal this is more than a catchphrase. Climate-related positions have been created in agencies and offices not normally thought of as the center of climate or environmental policy. For example, Treasury Secretary Yellen has hired a [“climate counselor”](#) to lead a new climate hub. Biden’s early executive orders requested action from all agencies and created new cross-agency coordination efforts, many of which are already up and running. David Hayes, the Special Assistant to the President for Climate

2 Biden’s [Memo on Scientific Integrity](#) directs all agencies to designate a chief science officer, science advisor, or chief scientist to ensure the agency’s programs are following scientific integrity principles, and to oversee the implementation and updating of those principles.



Policy who worked at Interior under Obama, has noted that the White House is much more directly involved in the push for offshore wind development than the Obama White House was, telling [Politico](#) “[w]e felt like we were doing all of it on our own,” at Interior during the Obama years while the White House, Energy, Commerce and Transportation were all involved in the recent offshore wind announcements.

Environmental Justice

The Biden administration’s whole-of-government commitment to environmental justice touches every federal agency – not just EPA – and covers personnel, policy, enforcement, and funding. Many of these commitments come from President Biden’s Executive Orders, issued in his first week in office. (Read more about those orders and the relevant environmental justice mandates on our [Biden’s Week One: Mapping Ambitious Climate Action](#) page).

In the first 100 days, federal agencies and the White House appointed a “who’s who” of leading environmental justice advocates and experts to fill existing vacancies and new positions created as part of the administration’s EJ agenda. Many of these new groups, including the White House Environmental Justice Advisory Council (WHEJAC), the Environmental Justice Interagency Advisory Council (IAC), and the Working Group on Revitalizing Coal and Power Plant Communities, all held their first public meetings, and the Working Group [publicly released its Initial Report](#) identifying nearly \$38 billion in existing federal resources to assist communities hardest hit by the transition to renewable energy.

The Senate also confirmed key leaders across the federal government, including Brenda Mallory as the head of the Council on Environmental Quality (CEQ); Michael Regan as EPA Administrator; and Deb Haaland as Secretary of the Interior and the first Native American to hold a Cabinet-level position. But it’s not just agency heads. Across the board, **agencies are building out a deep bench of environmental justice experts**: Marianne Engelman-Lado, a leading civil rights attorney, [joined EPA](#) as deputy general counsel; Dr. Cecilia Martinez joined CEQ as Senior Director for Environmental Justice; Christopher Coes [joined DOT](#) as principal deputy assistant secretary for transportation policy; and Shalanda Baker [joined DOE](#) as Deputy Director for Energy Justice, to name only a few. Even independent agencies like the Federal Energy Regulatory Commission (FERC) are bulking out their equity teams, including adding a [new senior position](#) to incorporate EJ and equity concerns into FERC’s decision-making.

In addition to personnel, agencies are also making progress on concrete goals, including a government-wide EJ Scorecard (update on scorecard metrics expected in July), CEQ’s new Climate and Economic Justice Screening Tool (to be [released](#) at the end of May), and **agency-specific equity plans**. In his [Executive Order on Racial Equity](#), President Biden directed all agencies to create an equity plan to address systemic barriers faced by underserved communities in accessing and participating in federal programs and benefits. While these plans aren’t due until January 2022, EPA, DOI, and DOT are already releasing updates on their progress.

To-date, **DOT has made the most public progress**



on both its equity plan and integrating EJ priorities into existing programs. The Department created a new Equity Leadership Team and Equity Task Force to inform its equity plan. At the same time, the Department’s Maritime Administration [announced](#) \$230 million in discretionary grants centering EJ and equity considerations, and DOT announced a revamped [\\$1 billion discretionary grant fund](#) called Rebuilding American Infrastructure with Sustainability and Equity (RAISE), prioritizing “improvements to racial equity.” The Department also for the first time [listed racial equity](#) as a key criteria for selecting recipients of \$889 million in discretionary grants under the Infrastructure for Rebuilding America (INFRA) program.

These financial commitments support another administration priority – the **government-wide Justice40 Initiative**, announced in President Biden’s [Executive Order on the Climate Crisis](#). The Initiative seeks to [direct 40 percent](#) of the “overall benefits of relevant federal investments” to “disadvantaged communities.” The Office of Management and Budget is [currently developing](#) agency guidance on how to implement the program, presumably defining the scope of benefits to be included as part of the initiative, and which communities will qualify as “disadvantaged.” In the meantime, EPA is working to allocate \$50 million designated for state and local EJ efforts as part of the COVID-19 Relief Bill. EPA also recently [announced \\$300 million](#) in low-interest loans to improve water infrastructure in Washington D.C.; Louisville, Kentucky; and the Florida Keys. These investments will likely count towards the administration’s broader Justice40 goals. President

Biden has also integrated Justice40 goals into his [American Jobs Plan](#).

Finally, the **administration is prioritizing stakeholder engagement** as a fundamental component of agency decision-making. These efforts in particular have targeted members of environmental justice communities. For example, on January 26, President Biden issued a [memo](#) to all executive departments and agencies including mandates to facilitate regular, meaningful, and robust consultation with federally recognized Tribal Nations. Recently, the Department of the Interior [withdrew three opinions](#) that were “issued without adequate Tribal consultation” that impede the Department’s ability to take land into trust for Tribes.³ More broadly, the Federal Energy Regulatory Commission is, for the first time, creating an [Office of Public Participation](#).⁴ And EPA Administrator Regan [issued](#) an agency-wide EJ mandate to take “immediate and affirmative steps to improve early and more frequent engagement with pollution-burdened and underserved communities affected by agency” activities.⁵ Communities will now be

3 On April 27, Interior Secretary Haaland issued [Secretarial Order No. 3400](#), which re-delegated the authority to review and approve land-into-trust applications to the BIA’s regional directors. In 2017, the Trump BLM required these decisions to be made by DOI’s headquarters staff. Also on April 27, Principal Deputy Solicitor Robert Anderson withdrew several Trump-era legal opinions, [reaffirming](#) Interior’s legal authority to take land into trust in Alaska, and [removing](#) unduly burdensome process requirements for Tribes seeking to place land into trust.

4 Congress first ordered FERC to create an Office of Public Participation in 1978 as part of the Public Utility Regulatory Policies Act (PURPA).

5 As one concrete example of these priorities in action, EPA [delayed](#) the effective date of the Trump-era [Lead and Copper Rule Revisions](#) for the sole [purpose of seeking public input](#), “particularly from individuals and



looking to see whether this enhanced engagement will lead to tangible outcomes, including improved enforcement and oversight.

President Biden is also using his own discretionary budget to push environmental justice priorities. The White House’s FY 2022 budget request, [released April 9](#), foretells new agency-based offices and programs targeting environmental justice, including a new Office of Climate Change & Health Equity at the Department of Health and Human Services, and a new \$936 million initiative at EPA called Accelerating Environmental and Economic Justice to improve monitoring and enforcement in overburdened neighborhoods.⁶ The request also includes \$882 million for the Superfund Remedial Program, increased funding for EPA’s Brownfields program, and “additional funding” to “overhaul and strengthen” EPA’s External Civil Rights Compliance Office (ECRCO).

In addition to these government-wide initiatives, **EPA leadership are taking steps to improve enforcement** in environmental justice communities. In early April, Administrator Regan [directed](#) all EPA offices to “strengthen enforcement of violations of cornerstone environmental statutes,” particularly in overburdened communities whose residents are of color, Indigenous, or low-income. In a [memo](#) dated

communities that are most at-risk of exposure to lead in drinking water,” on how to best revise the rule.

6 On April 29, EPA [announced](#) it will expand the scope of its Toxics Release Inventory (TRI) to require reporting of more chemicals from more facilities, targeting ethylene oxide and PFAS. EPA will also expand public access to those data, including launching a Spanish language version of the TRI website.

April 30, 2021, Lawrence Starfield, acting assistant administrator for EPA’s Office of Enforcement and Compliance (OECA), laid out four strategies for implementing this mandate, including increasing facility inspections; crafting settlement agreements that remediate pollution and address past harms; improving engagement with affected communities; and, where necessary, stepping in to ensure enforcement where state and local regulators fall short. These initiatives will be coordinated by a new Enforcement Steering Committee responsible for guiding the Office’s EJ work.

Federal Energy Leasing & Permitting

In Executive Order 14008, Tackling the Climate Crisis at Home and Abroad, President Biden directed the Secretary of the Interior to pause new oil and natural gas leases and conduct a comprehensive review and reconsideration of federal oil and gas permitting and leasing practices, including consideration of climate impacts. Interior is to conduct its review in consultation with Agriculture, the National Oceanic and Atmospheric Administration, and Energy. Biden included instructions for Interior to consider whether to adjust royalties, or take other action, to account for climate costs.

On March 25, 2021, Interior held a [public forum](#) on the oil and gas program review that included panels with stakeholders and encouraged attendees and the public to submit additional information for the agency to consider in its review. On April 16, 2021, Sec. Haaland issued [Order 3398](#), revoking twelve Trump-era secretarial orders enacting the prior administration’s policies, including some



addressing oil and gas permitting. Interior’s Office of the Solicitor also revoked a prior memorandum interpreting how often the agency must hold lease sales under the Outer Continental Shelf Lands Act (OCSLA). In [Order 3399](#) signed the same day, Sec. Haaland also created a Climate Task Force, whose responsibilities include “implementing the review and reconsideration of Federal oil and gas leasing and permitting practices.”

While the agency conducts its oil and gas review, the Bureau of Ocean Energy Management (BOEM) has moved forward with offshore wind permitting. EO 14008 directed Interior to review siting and permitting processes with the goal of significantly expanding offshore wind by 2030. On [March 29, 2021](#) the White House announced specific actions at Interior, Energy, Commerce, and Transportation to advance offshore wind energy projects, invest in infrastructure and supply chain development for the offshore wind

industry, and support research and development.

The announcement included a target of deploying 30 GW of offshore wind by 2030 and a goal of approving 16 Construction and Operation Permits (COPs) by 2025. Kickstarting these efforts, BOEM initiated an environmental review for a new Wind Energy Area off the New York coast and announced it would begin an environmental review of a COP for an 1,100 MW Ocean Wind facility off the coast of New Jersey. The White House also announced funding for research and fisheries research and port infrastructure. Before these announcements, Interior released the long-awaited Final Environmental Impact Statement for the Vineyard Wind project on March 8, 2021 and issued its [Record of Decision](#) approving the project’s construction and operation plan on May 11, 2021. BOEM has since initiated an environmental review of another COP, announcing on April 29, 2021 it was reviewing a submission by Revolution Wind for an



880 MW facility off the coast of Rhode Island and Massachusetts. Helping smooth the way for offshore development, Principal Deputy Solicitor Robert Anderson [revoked](#) a Trump-era legal opinion that limited the Secretary’s discretion in balancing ocean uses on April 9, 2021.

Climate Focus for Energy and Transportation Funding

Biden’s biggest climate policy proposal to date is his [American Jobs Plan](#), a plan to invest in infrastructure and research and development focused on water, the grid, buildings, and ports and transportation while developing a supply chain for renewable energy projects and electric vehicles, among other items. Much of his plan requires funding allocations and tax incentives from Congress. However, the administration is complementing these requests by moving forward with what it can on its own. The Department of Energy has announced funding for [solar initiatives](#), [workforce development](#), [geothermal](#), [carbon capture](#), [transmission](#), [decarbonizing cars and trucks](#), and other projects. The Department of Transportation has announced funding for [transit planning](#) and has appointed a [Chief Science Officer](#) and re-established its Climate Change Center.

Independent Agencies Addressing Climate

In addition to the climate focus for transportation, infrastructure, research, and jobs initiatives, new leadership at independent federal agencies are taking on climate change as well. The SEC has announced efforts in its Divisions of Corporation

Finance, Examinations, and Enforcement to look more closely at how regulated entities are considering and disclosing climate change risks and has opened a public comment period to gather input on potential new guidelines and regulations. The Federal Reserve has created a Financial Stability Climate Committee and the CFTC has created a Climate Risk Unit. (See more about actions financial regulators have taken in our [Financial Regulator Climate Action Tracker](#) and our [Climate Change, Corporate Disclosure, and Financial Risk page](#).) [FERC Chairman Richard Glick](#) has highlighted environmental justice and climate change as top priorities for the Commission.

A Return to International Climate Leadership

Another significant achievement for President Biden’s first 100 days is the US’s splashy return to the global stage on climate change. On Earth Day, President Biden hosted a [Climate Leaders Summit](#) where he committed to cut US greenhouse gas emissions 50 to 52% below 2005 levels by 2030, [nearly doubling](#) our prior commitment under President Obama to reduce emissions 26 to 28% below 2005 levels by 2025. The particulars of how the administration plans to achieve this goal will be part of the US’s “nationally determined contribution” or NDC, to be submitted to the United Nations in advance of the next climate change conference, known as COP26, in Glasgow in November. This ambitious goal heightens the importance of contending with the Trump administration’s legacy, including the [significant environmental regulatory rollbacks](#) affecting the transportation, electricity production, oil and gas



production, and commercial and residential sectors. Biden's two-day virtual climate summit involved 40 world leaders, including Chinese President Xi Jinping. While President Biden's commitment sent a clear signal that the US is reassuming a leadership role in global climate negotiations, it remains to be seen how other major emitter countries will respond, particularly those countries that have yet to submit an updated NDC, such as China. (For a review of major emitting countries' prior NDCs and current commitments, see EELP's analysis [here](#)).

In addition to the commitment to cut 50+% of GHG emissions, President Biden unveiled a new [International Climate Finance Plan](#) designed to marshal public and private funds to help developing countries mitigate and adapt to climate change. The plan builds on monetary commitments made by the Obama administration and left unfulfilled by the Trump administration. It promises action from USAID, the US International Development Finance Corporation, and the Millennium Challenge Corporation to prioritize climate mitigation and adaptation in project funding. It also emphasizes collaborating with the private sector through public-private partnerships to mobilize private capital for projects that address climate change, such as renewable energy, while working to end international investments in fossil fuel-reliant energy projects.

Legal Challenges Ahead

President Biden's first 100 days were marked by a dizzying array of announcements involving numerous agencies that outline his plans to address climate change and improve environmental outcomes. Not all are referenced in this report. While progress has been made to reverse the Trump administration's deregulatory legacy and repair damage to environmental and scientific agencies (follow the administration's progress in [our chart](#)), much of the work so far simply lays the foundation for future action with the structures remaining to be built.

Achieving the administration's ambitious goals will require sustained action from all of the offices and agencies the White House has included in its climate change plans in these first few months. It will also require strong legal defenses against inevitable challenges from opponents at each step. During the Trump Administration, Democratic state attorneys general (AGs) [challenged numerous federal actions in court](#), seeking to preserve environmental and other regulatory policies. Republican state AGs have already begun attacking the Biden administration's efforts, bringing Administrative Procedure Act (APA), National Environmental Policy Act (NEPA), and other challenges meant to delay or overturn early executive actions. State AGs can generally show standing to [sue more easily](#) than non-governmental organizations, making it easier for them to initiate challenges.

Republican state AGs have already challenged four key environmental policies: 1) the pause on



new federal oil and gas leasing,⁷ 2) the setting of interim values for the social cost of greenhouse gas emissions,⁸ 3) President Biden's revocation of the cross-boundary permit for the Keystone XL pipeline,⁹ and 4) Biden's decision to pause border wall construction (challengers are objecting to the decision under NEPA).¹⁰ One of the most recent filings [revived a challenge](#) against EPA's Clean Power Plan a regulation promulgated during the Obama administration and not currently in effect, by asking the Supreme Court to address differing views on EPA's authority to regulate GHG emissions from power plants. The strength of these cases varies widely, and many are unlikely to survive as they address interim or temporary steps that don't yet give rise to final agency actions. Nevertheless, these lawsuits give state AGs powerful platforms to declare their own policies and publicly oppose the administration's agenda. Regardless of the fate of these particular filings, they highlight legal arguments likely to reappear in future challenges to final rules and other administrative actions.

Continue to follow our work as we analyze the Biden administration's federal environmental regulatory efforts by signing up for our [federal regulatory tracker emails](#). Also, learn more about our other work by signing up to receive [EELP's program updates](#)

that include our work beyond tracking the federal regulatory agenda.

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7 Wyoming v. Dep't of the Interior, No. 21-cv-00056 (D. Wyo. filed Mar. 24, 2021); Louisiana v. Biden, No. 21-cv-00778 (W.D. La. filed Mar. 24, 2021).

8 Missouri v. Biden, No. 21-cv-00287 (E.D. Mo. filed Mar. 8, 2021); Louisiana v. Biden, No. 21-cv-01074 (W.D. La. filed Apr. 22, 2021).

9 Texas v. Biden, No. 21-cv-00065 (S.D. Tex. filed Mar. 17, 2021).

10 Arizona v. Mayorkas, No. 21-cv-00617 (D. Ariz. filed Apr. 11, 2021).