



Information Alert

State-Federal Relations Division

President Biden Signs Day One Environmental and Energy Orders

Jan. 25, 2021

President Joe Biden issued a number of presidential actions involving environment and energy issues—ranging from a required review of federal regulations, to the revocation of existing federal permits, and changes to national land and sea monuments.

You can read the full text of the executive order [here](#), or contact NCSL staff [Kristen Hildreth](#) or [Ben Husch](#) for more information.

Review and Rescission of Regulations Issued After Jan. 20, 2017

The president signed an executive order entitled, [“Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.”](#) ordering an immediate review of federal agency actions taken during the previous administration, and if appropriate, to consider “suspending, revising or rescinding” the agency actions. Specifically, the president called for the agencies to consider “publishing for notice and comment a proposed rule suspending, revising, or rescinding,” including 104 energy and environmental rules including:

- Methane [emission standards](#) for new and modified sources issued in September 2020; separately the president also ordered a rule on emission standards for existing sources.
- [Greenhouse Gas \(GHG\) emission standards and fuel economy standards](#) for passenger cars and light trucks issued as well as the revocation of a waiver previously issued to California to set its own GHG standards.
- A [May 2020 determination](#) not to regulate Hazardous Air Pollutants from coal and oil-fired electric utility steam generating units.
- The Clean Air Act cost-benefit rulemaking issued [late-December 2020](#), which establishes a process that the Environmental Protection Agency (EPA) is required to take for air pollution rules “to ensure that information regarding the benefits and costs of regulatory decisions is provided and considered in a consistent and transparent manner.”
- The EPA’s “scientific transparency” rulemaking, [issued](#) January 2021, which requires the EPA when promulgating significant regulatory actions, or developing scientific information, to give greater consideration to studies where the data is public and available for independent validation.

- Several appliance and building efficiency standards rulemaking, [including](#) a rule establishing new testing procedures

Additionally, the EPA was tasked with [proposing](#) a Federal Implementation Plan for those states who did not submit a state implementation plan to the agencies' 2008 ozone standards.

Keystone XL Permit Revocation

The president revoked the March 2019 presidential permit which was granted to the TransCanada Keystone Pipeline to “construct, connect, operate, and maintain” pipeline facilities, relying upon a 2015 determination that “approving the proposed Keystone XL pipeline would not serve the U.S. national interest.”

Restoration of National Monuments and Halting of Activities in ANWR

The president ordered a review of several national monument boundaries including the Bears Ears National Monument, the Grand Staircase-Escalante National Monument, and the Northeast Canyons and Seamounts Marine National Monument in response to the previous administration's efforts to reduce their size.

The president also ordered a temporary moratorium of all activities related to the implementation of the Coastal Plain Oil and Gas Leasing Program in the Arctic National Wildlife Refuge, pending a new environmental impact analysis. Additionally, areas in the Arctic waters and the Bearing Sea which were previously withdrawn from oil and gas drilling under the Obama administration, but reinstated under the Trump administration, were again withdrawn from oil and gas activities.

Social Cost of Greenhouse Gasses

Another new order from the president establishes an Interagency Working Group on the Social Costs of Greenhouse Gasses (GHG) to develop a federal amount for the “social cost of carbon,” “social cost of nitrous oxide,” and “social cost of methane.” These are “the monetized damages associated with incremental increases,” in the associated GHG emissions. The developed “social costs” would then be used in cost-benefit analysis for regulatory actions. During the Obama administration the social cost of carbon, established by the interagency working group, was \$52 per ton. The interagency working group was disbanded under the Trump administration, and the social cost of carbon fell to an estimated \$1 per ton.

Rejoining of the Paris Climate Agreement

President Biden [signed a separate letter](#) rejoining the 2015 Paris Agreement, undoing a 2017 decision by President Trump. The Paris Agreement aims to limit global temperature rise within this century to below 2 degrees Celsius above pre-industrial levels, with an ideal pursuit of limiting the increase to 1.5 degrees Celsius but does not require specific actions by any country though the agreement [enables](#) nations to address rising GHG emissions through a cooperative system that encourages and relies upon transparency and accountability.

Executive Order Revocations

In addition to the orders above, the president also revoked a slew of executive orders by President Trump including, but not limited to:

- An [order](#) aimed at expediting reviews and approvals of high priority infrastructure projects which established a process for infrastructure projects which require federal environmental reviews and approvals to be declared “high priority.”
- An [order](#) to begin the process of reviewing and rescinding the Clean Water Rule: Definition of Waters of the United States, which directed the EPA to rely upon the late Supreme Court Justice Antonin Scalia’s opinion that the Clean Water Act only applies to “navigable waters,” and to non-navigable waters if they are “relatively permanent, standing or flowing bodies of waters.”
- An [order](#) aimed at “promoting [the] clean and safe development of our countries vast energy resources, while at the same time avoiding regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation.” The order called for a review and potential rescission of the 2015 Clean Power Plan Final Rule, lifted a moratorium on new coal mining leases, and [rescinded guidance](#) issued by the White House Council on Environmental Quality regarding how federal agencies should consider climate change when evaluating proposed federal actions.
- An [order](#) directing the Department of Interior (DOI) to review many of the national monument designations made by the past three presidents, and which allowed the department’s secretary to issue actions that would allow for the revocation or reduction in size of any monuments that were in excess of 100,000 acres, or created via the Antiquities Act.
- An [order](#) which directed the DOI to examine and consider allowing offshore oil and gas drilling in areas where such actions were previously prohibited, and review the five-year offshore leasing plan.