

President Biden takes executive actions on climate change, clean energy, and scientific integrity

29 January 2021

President Biden ran on an energy and environmental platform calling for a carbon-free power sector by 2035 and net-zero carbon emissions by 2050. The new Administration has hit the ground running with a raft of Executive Orders and other measures to address climate change and scientific integrity, including the following Executive Orders and memorandum issued on January 27.

1. Executive Order on tackling the climate crisis at home and abroad

This [Executive Order](#) (EO) takes a number of steps to place climate change at the forefront of U.S. policymaking, embolden domestic energy sources, and grow American jobs.

- **Focus on climate change:** The EO aims to ensure that climate change is a central element of U.S. foreign policy and national security. It takes a “whole-of-government” approach, creating the White House Climate Policy Office to coordinate domestic climate policy. The EO also establishes a National Climate Task Force (Task Force), chaired by National Climate Advisor Gina McCarthy and comprising representatives from 21 federal agencies and departments (including the Energy, Interior, Transportation, Defense, and Treasury Departments and the Environmental Protection Agency). The Task Force’s broad objectives include helping to increase U.S. climate resilience and promoting conservation, environmental justice, and job creation.

The EO also directs the creation of a plan within 90 days to use existing government procurement authorities to develop a carbon pollution-free electricity sector by 2035 and provide clean and zero-emission vehicles for government use.

Promises made by President Biden on his first day in office are carried through by the EO, such as [rejoining](#) the Paris Agreement and reviewing the rollback of certain Trump Administration air and water standards. It also directs the United States to develop its emissions reduction target

under the Paris Agreement prior to the Leaders' Climate Summit in April, which the President will host.

The EO also takes various national security-related actions, such as creating a Special Presidential Envoy for Climate on the National Security Council and ordering a National Intelligence Estimate on the security implications of climate change.

On environmental justice, the EO establishes the White House Environmental Justice Interagency Council to provide recommendations for reform, as well as establishes an EPA advisory council to monitor and enforce environmental justice issues. It also calls for the establishment of environmental justice offices at the Department of Justice and Health and Human Services.

- **Emphasis on clean energy:** On January 20, 2021, the Department of Interior (DOI) issued an [order](#) that placed a 60-day moratorium on new fossil fuel permits. The EO effectively extends this timeline and pauses any new oil and natural gas leases on public land and offshore water until a review can be conducted of all existing leases. This review will include consideration of climate impacts and a review of the current oil and gas permitting practices and royalty rates. The EO also eliminates federal fossil fuel subsidies and directs the Office of Management and Budget to eliminate these subsidies from the FY2022 budget request.

The EO also requires that DOI conduct a review to increase renewables on public lands and offshore, including a target of doubling offshore wind by 2030. It sets ambitious land and water conservation goals of conserving 30 percent of public lands and waters by 2030, referred to as the “30 x 30” initiative.

- **Creation of jobs and opportunities in the new clean energy economy:** During his campaign, President Biden [announced](#) his intention to create over 10 million well-paying jobs in the clean energy sector. In recognition of the potential adverse impact on jobs in the fossil fuel sector, this EO directs the establishment of a plan to counter those job losses with an offsetting program of job creation.

The EO directs DOI and the Department of Agriculture to create a Civilian Climate Corps Initiative for conservation jobs and training opportunities. DOI is further tasked with reviewing permitting on public lands and offshore waters and developing potential steps to create new jobs in this area. The order also aims to create “clean energy” jobs in certain sectors (such as manufacturing and engineering) for a broad range of demographics.

The EO also identifies infrastructure development as an area for job growth. On the other hand, the EO emphasizes that federal investments and permitting reviews must consider greenhouse gas emissions and climate impacts.

Finally, the executive order establishes an interagency working group to coordinate the delivery of federal resources to “revitalize” communities that are economically dependent on fossil fuels, in part by creating jobs that can help revitalize brownfield properties, curb carbon emissions, and generally improve air and water quality in various ways.

2. EO on the President's Council of Advisors on Science and Technology

This [EO](#) reestablishes the President's Council of Advisors on Science and Technology (PCAST), which was originally established by President George W. Bush and reestablished by President Obama. The PCAST is co-chaired by the White House Science Advisor and brings together various presidentially-appointed experts in science, technology, and innovation from outside the federal government.

The PCAST will assume an advisory role and inform the President on a wide range of policy issues touching on science and technology. The PCAST is instructed to solicit information from stakeholders in the private sector, universities, national labs, non-federal governments, and nonprofits. The Department of Energy is tasked with providing funding and support to the group, as needed.

3. Memorandum on restoring trust in government through scientific integrity and evidence-based policymaking

This [memorandum](#) directs federal agencies to prioritize evidence-based policymaking using best-available science and data. The Director of the Office of Science and Technology Policy is tasked with ensuring scientific integrity across federal agencies in part by preventing “[i]mproper political interference” and “suppression or distortion” of scientific or technological data and findings.

The memorandum directs agencies involved in research to designate a Chief Science Officer and requires that *all* agencies employ a Scientific Integrity Official to implement science-integrity processes. The memorandum establishes a Task Force on Scientific Integrity to review relevant policies across agencies developed since the [2009 Memorandum for the Heads of Executive Departments and Agencies](#).

What's next?

President Biden's climate change-focused EO and related actions are a sharp contrast from the previous Administration, both in terms of their immediate national objectives and active international engagement. At the same time, they set the tone for an Administration that continues the trend of using executive authority to achieve policy and regulatory goals. Whether far-reaching legislation can be passed, particularly given the razor-thin Democratic majority in the Senate, will be a major factor in determining whether the President will achieve long-lasting success in these areas.

The fossil fuel industry will face several regulatory and other hurdles, including regulatory rollbacks of Trump Administration initiatives, possible future legislation, and other executive actions. Litigation challenging certain Biden initiatives is already underway. In contrast, the renewables industry will see new opportunities for industry growth, so long as that growth is consistent with the Administration's increased emphasis on environmental and wildlife protection and climate change.

Given the “whole of government” approach to climate change that the Biden Administration pledges to undertake, industries that may previously have seen themselves as outside the climate change discourse may find that has changed, and new regulatory challenges, as well as new opportunities, will present themselves. Specifically, the transportation, infrastructure development, and financial services industries will likely feel near-term effects of these initiatives, along with the energy industry.

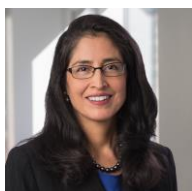
Contacts



Amy Roma
Partner, Washington, D.C.
T +1 202 637 6831
amy.roma@hoganlovells.com



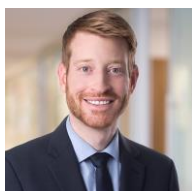
Jonathan Stoel
Partner, Washington, D.C.
T +1 202 637 6634
jonathan.stoel@hoganlovells.com



Hilary Tompkins
Partner, Washington, D.C.
T +1 202 664 7831
hilary.tompkins@hoganlovells.com



Mary Anne Sullivan
Senior Counsel, Washington, D.C.
T +1 202 637 3695
maryanne.sullivan@hoganlovells.com



Rob Matsick
Associate, Washington, D.C.
T +1 202 804 7787
rob.matsick@hoganlovells.com



Juliya Grigoryan
Knowledge Lawyer, Washington, D.C.
T +1 202 637 5709
juliya.grigoryan@hoganlovells.com

www.hoganlovells.com

"Hogan Lovells" or the "firm" is an international legal practice that includes Hogan Lovells International LLP, Hogan Lovells US LLP and their affiliated businesses. The word "partner" is used to describe a partner or member of Hogan Lovells International LLP, Hogan Lovells US LLP or any of their affiliated entities or any employee or consultant with equivalent standing. Certain individuals, who are designated as partners, but who are not members of Hogan Lovells International LLP, do not hold qualifications equivalent to members.

For more information about Hogan Lovells, the partners and their qualifications, see www.hoganlovells.com.

Where case studies are included, results achieved do not guarantee similar outcomes for other clients. Attorney advertising. Images of people may feature current or former lawyers and employees at Hogan Lovells or models not connected with the firm.

© Hogan Lovells 2021. All rights reserved.