

## Executive Order Summaries

On January 20, 2021, President Biden signed seven actions, primarily Executive Orders, that can affect environmental law and policy. You can also find these posted on Beveridge & Diamond's [Biden Administration Resources page](#). Executive Orders are policy direction from the President to the Executive Branch. Despite the specific direction contained in some of these Orders, Executive Orders are not enforceable. The actions directed by any Executive Order must continue to follow federal law, including the Administrative Procedure Act (APA). For example, rules that are not yet final may be withdrawn, but final rules may only be rescinded or modified in accordance with the APA.

The following summarizes the seven actions. The titles are hyperlinked to the White House website with the full text of each. In the coming weeks, the Executive Orders will be published in the Federal Register and will include the Executive Order number.

### Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis

This Executive Order directs the agencies to review and take action to address regulations that conflict with the Administration's objectives. The look back period begins January 20, 2017 and includes all regulations, orders, guidance documents, and other agency actions. Agencies should conduct this review and consider suspending, revising, or rescinding such agency actions, consistent with federal law, including the APA. Actions taken under this Executive Order must be submitted not only to Office of Management and Budget (OMB) but also to the National Climate Advisor for review. In addition, DOJ is directed to evaluate stays of litigation for matters related to this Executive Order.

#### Deadlines for Review of Specific Rules

Deadlines for review of several specifically identified rules include the following:

- September 2021: Methane Technical Rule – Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Reconsideration
- April 2021 and July 2021: Safer Affordable Fuel-Efficient (SAFE) Vehicles rules
- March 2021, June 2021, and May 2021: Appliance and building efficiency standards
- August 2021: National Emission Standards for Hazardous Air Pollutants: Coal-and Oil-Fired Electric utility Steam Generating Units – Reconsideration of Supplemental Finding and Residual Risk and Technology Review
- As Soon As Possible: Increasing Consistency and Transparency in Considering Benefits and Costs in the Clean Air Act Rulemaking Process
- As Soon As Possible: Strengthening Transparency in Pivotal Science Underlying Significant Regulatory Actions and Influential Scientific Information

EPA is also directed to consider by the following deadlines:

- September 2021: establish comprehensive standards of performance and emission guidelines for methane and volatile organic compound emissions from the oil and gas sector

- January 2022: propose a Federal Implementation Plan for California, Connecticut, New York, Pennsylvania, and Texas in accordance with EPA's Findings of Failure to Submit State Implementation Plan Revisions in Response to the 2016 Oil and Natural Gas Industry Control Techniques Guidelines for the 2008 Ozone NAAQS and for States in the Ozone Transport Region.

## Boundaries of National Monuments

The Executive Order directs the Department of the Interior to review several actions relating to the boundaries for national monuments, including Bears Ears, Grand Staircase-Escalante, and Northeast Canyons and Seamounts Marine.

## Arctic Refuge

A temporary moratorium is placed on all federal activities relating to the implementation of the Coastal Plain Oil and Gas Leasing Program; and reinstatement of protected areas in the Outer Continental Shelf to protect those areas from mineral leasing.

## Accounting for the Benefits of Reducing Climate Pollution

The Executive Order establishes a working group to develop measures to assess the social cost of carbon, nitrous oxide and methane. The goal is to capture the full costs of greenhouse gas emissions as accurately as possible.

## Keystone XL Pipeline

The permit for the Keystone XL Pipeline is revoked.

## Executive Order Revocations

Several specific Executive Orders are revoked, including the following:

- *Expediting Environmental Reviews and Approvals for High Priority Infrastructure Projects*
- *Restoring Rule of Law, Federalism, and Economic Growth by Reviewing the Waters of the US Rule*
- *Promoting Energy Independence and Economic Growth*
- *Review of Designations Under the Antiquities Act*
- *Implementing an America-First Offshore Energy Strategy*
- *Promoting Energy Infrastructure and Economic Growth*
- *Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects*
- CEQ's draft NEPA guidance on considering greenhouse gas emissions is also revoked.

## Regulatory Freeze Pending Review

This Executive Order directs agencies to withdraw rules that have not yet been published in the Federal Register and for those rules that have been published, requests agencies to consider postponing effective dates for 60 days and consider re-opening the rules for a 30-day public comment period.

In addition to rules, this also applies to actions that agencies take prior to final rules, such as notices of inquiry, advance notices of proposed rulemaking, notices of proposed rulemaking, and statements of

general applicability and future effect that sets forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statutory or regulatory issue.

## Advancing Racial Equity and Support for Underserved Communities Through the Federal Government

This Executive Order refines EJ terms such as “equity” and “underserved communities” and asks agencies to examine how their policies and programs create or exacerbate barriers to full and equal participation. Agencies are also directed to increase coordination, communication, and engagement with communities and civil rights organizations and ensure that resources are deployed equitably. Pilot programs will be evaluated as will the type of data needed to better assess equity.

## Paris Climate Agreement

Statement accepting the Paris Agreement.

## Announcement of Federal Agency Leadership

Lists the names of the career staff serving in the most senior position at each agency until the permanent leadership is confirmed by the Senate. Several leaders of note include Monty Wilkinson at DOJ; Jane Nishida at EPA; David Huizenga at DOE; and Scott de la Vega at DOI.

## Revocation of Certain Executive Orders Concerning Federal Regulation

Revokes certain specified Executive Orders, including:

- *Reducing Regulation and Controlling Regulatory Costs*
- *Enforcing the Regulatory Reform Agenda*
- *Evaluating and Improving the Utility of Federal Advisory Committees*
- *Promoting the Rule of Law Through Improved Agency Guidance Documents*
- *Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication*

In addition, the agencies are directed to rescind orders, rules, regulations, guidelines, or policies that implement these Executive Orders. Where rescission cannot occur immediately, the agencies are directed to take steps to provide all available exemptions authorized by such orders, rules, regulations, guidelines, or policies.

## Modernizing Regulatory Review

Directs OMB to produce a set of recommendations for improving and modernizing the regulatory review process and advance the values of the Administration. The directive also identifies four particular areas of focus for this review.

*Beveridge & Diamond has assembled a Task Force—including members with former senior U.S. and state government experience—that is closely watching developments under the Biden administration across multiple environmental, energy, and natural resources subject areas. Visit our [Biden Administration Resources](#) page for more information and updates.*