

Client Alert

Environmental Regulatory Changes Biden Administration Outlook

The Biden Administration has made it clear that addressing the climate change crisis will be one of their top priorities.

Day One

Marking a clear shift in policy from the Trump Administration, which focused primarily on energy dominance and deregulation, the new administration will embrace an outspoken commitment to rollout a Clean Energy Revolution plan and enforce environmental justice. Here is what we can expect to see during the first year of the Biden Administration:

- Rejoin the Paris Climate Agreement - Biden has pledged he will recommit the United States to the Paris Agreement on his first day in office. His key commitment under this agreement will be the investment of \$2 trillion over four years to ensure the U.S. achieves a 100% clean energy economy and reaches net-zero emissions no later than 2050. To accomplish this, we can expect large investments in clean energy, climate research, and innovation to reduce greenhouse gas emissions.
- Rescind Executive Orders - Biden will likely rescind at least fifteen (15) Trump environmental executive orders on day one and pause any orders currently in the public rulemaking process. The Biden administration is expected to focus on tightening emission standards, reducing the use of coal in electricity generation, and reinstating several other Obama-era rulemakings. Some of moves away from the Trump Administration agenda may include:
 - Permit streamlining efforts – such a modification of “One Federal Decision” Executive Order
 - Clean Water Act (CWA) initiatives – such as the Trump Administration’s rule narrowing the extent of geographic jurisdiction under the CWA, which is currently in litigation;
 - Air emissions standards – such as rules that relaxed emission standards and revoked California’s emissions standards
- Reverse Energy Rollbacks - The Biden Administration has promised to stop issuing new permits for oil and gas activity on public lands and waters. This would be a complete flip from the Trump administration’s push for more oil and gas leasing and permitting on public lands. We can expect Biden to implement stricter methane pollution limits for new and existing oil and gas operations, and a push for increased renewable generation capacity on federal lands and waters.

We’re here to empower results:

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Year One

- Shift in Enforcement - Under the Trump administration, the EPA voiced their focus on compliance programs rather than enforcement, putting the impetus on states to be the lead enforcement agency. We should expect a shift in the Biden administration, with increased regulatory measures at the federal level to enforce milestone targets for cuts to greenhouse gas emissions.
- Regulation of PFAS in Drinking Water - One significant change we can expect will be a crackdown on Per- and poly-fluoroalkyl substances (“PFAS”), known as ‘forever chemicals.’ While the Trump Administration got the regulatory ball rolling by including PFAS and PFOS in the Safe Drinking Water Act’s Contaminant Candidate List, the Biden Administration will likely propose a Maximum Contaminant Level and National Primary Drinking Water Regulation in 2021 that will have implications for a variety of businesses, not just water utility companies. It is also probable the Biden Administration will pass the PFAS Action Bill, requiring the EPA to designate PFAS as a “hazardous substance” under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), grant the EPA enforcement rights.
- Restore Wildlife Areas - The Trump Administration slashed the size of Bears Ears and Grand Staircase-Escalante national monuments and opened parts of the Arctic National Wildlife Refuge to oil exploration, an area historically barred from exploration for the last 35 years. We can expect Biden’s administration to reverse those cuts in monument size and permanently protect the Arctic National Wildlife Refuge from oil exploration. There is also potential for a Biden Administration moratorium on leasing of federal lands for coal mining and possibly for oil and gas drilling.
- Enforce Transparency for Publicly Traded Companies - Currently, the Security Exchange Commission (SEC) has a voluntary reporting framework regarding environmental, social, and governance (ESG) and only requires disclosure when ‘financially material’ to investors. The Biden Administration has pledged to make publicly traded companies disclose their climate risks and emission-levels in their operations and supply chains. We can expect to see a push for more ESG transparency to better help investors and regulators make informed decisions and remove barriers to effective climate risk management.

The Biden Administration plans to prioritize climate change not just by creating traditional regulation through the Environmental Protection Agency, but by integrating this initiative throughout many federal agencies. This “all hands-on deck” approach to combating greenhouse gas emissions, water pollution, and air pollution guarantees a change in operations for companies across a wide variety of industries. We can expect to see shifts in regulation, cleanup standards, policy enforcement, and reliance on fossil fuels.

The Biden Administration environmental enforcement measures will shift from the Trump Administration’s “cooperative federalism” (where states took the primary enforcement role) to taking an aggressive stance in pursuing enforcement actions at the federal level. Increased federal enforcement along with anticipated changes in maximum contaminant levels increases environmental liability risks for businesses.

Aon is dedicated to helping its clients anticipate and adapt to future regulations by providing expertise, innovation, and insights into the rapidly changing environmental landscape and designing risk transfer solutions to protect our clients.

The Aon Difference

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