

# Key Environmental Law and Policy Issues to Watch in President Trump's Second Administration

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On November 5, President Donald Trump was elected President-elect for a second time. We anticipate that President Trump's upcoming term will usher significant shifts in U.S. environmental and natural resource law and policy, as well as personnel at the U.S. Environmental Protection Agency (EPA), the Council on Environmental Quality (CEQ), the U.S. Department of the Interior (DOI), the U.S. Department of Justice (DOJ), and other federal agencies that establish and implement environmental regulation. The next six months will be especially impactful, as the Biden administration races to secure its legacy while the Trump administration assembles a ground team to dramatically de-regulate most, if not all, of the Biden administration's primary policy initiatives. This Alert provides a high-level review of key environmental and natural resources issues to watch for in a second Trump administration.

## Summary

With Republican control of the Senate, President Trump can expect greater latitude in his choice of cabinet appointees. With Senate support, President Trump will have the opportunity to appoint judges throughout the federal judiciary, including the U.S. Supreme Court, and we expect increased litigation further chipping away at federal regulation and building on this term's [recent Supreme Court decisions](#). While Republican control of the House is yet to be decided, such a result would further support President Trump's opportunity to pursue targeted legislative initiatives specific to his environmental and natural resources priorities, notably related to chemical, energy, and permitting de-regulation.

Before the clock runs out on the Biden administration, companies can expect federal agencies to continue to use every tool available to finalize pending rules, expedite priority enforcement actions, adopt preferred guidance, and distribute grant funding to attempt to cement the Biden administration's key initiatives over the past four years.

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At the same time, the second Trump administration will plan its “de-regulatory” environmental and natural resource agenda and begin building out its agency teams. Much of its early actions will focus on a robust rollout of executive orders to pause or reverse key Biden administration efforts and reposition EPA and other agencies for further evaluation of de-regulatory policies, including potentially pausing agency enforcement actions.

## Early Takeaways

- 1. Regulatory pauses, reversals, and possible expansions.** As is typical at the beginning of any new administration, expect the Trump administration, upon taking office, to immediately issue a directive withdrawing pending regulations that are not yet published in the Federal Register, including final rules awaiting publication, or defer the effective dates of recently published regulations. The Trump administration will also quickly rescind Biden executive orders and issue new executive orders consistent with Trump’s policy priorities. Look for the Trump administration to utilize the Congressional Review Act, as it did during his first term, to repeal administrative rules. Biden administration efforts on the chopping block may include the [Aquatic Life Water Quality Standards Guidelines for PFAS](#), accelerated PFAS reporting in the [Toxic Release Inventory](#), proposed [NSR rule for project emissions](#), expansions of [Endangered Species Act \(ESA\) rules](#), including the recent vessel speed rule, and interagency efforts addressing climate change and environmental justice. Other priorities, such as the [Global Plastics Pollution Treaty](#) and OSHA’s [heat injury and illness prevention standard](#), may be revisited after inauguration. Unconventionally for a Republican administration, the new Trump administration may also seek to expand regulation of certain chemicals, pesticides, drugs, and food additives, depending on the roles assigned to adviser and transition team member Robert F. Kennedy, Jr.
- 2. Stays of pending litigation.** The Trump administration’s DOJ will likely seek immediate stays of federal litigation, particularly rulemaking challenges, to allow time to develop new administration positions. The Trump administration would then have the option of supporting the regulation or agency decision, attempting to rescind it through the Administrative Procedure Act process, and/or replacing it with a new regulation or decision. Currently, litigation is pending on several high-profile rules, including SEC [corporate disclosure](#) mandates related to climate change, EPA’s newest [methane rule](#) targeting the oil and gas industry, and pending judicial review challenges to EPA final rules under the Toxic Substances Control Act on asbestos, methylene chloride, and the risk evaluation framework rule. The SEC has stayed implementation of its climate disclosure rules while they are under judicial review, so a stay on the judicial process would not trigger any immediate enforcement of these rules.
- 3. Rollback of priority Biden initiatives.** Anticipate aggressive action by the Trump administration to roll back Biden administration efforts on climate change, environmental justice, and, potentially, emerging contaminants. For example, EPA’s [amendments to its Risk Management Program \(RMP\) regulations](#) are in effect but with delayed compliance dates – expect rulemaking to revoke them (as was done with earlier Obama-era RMP amendments during the first Trump administration). The regulated community should closely monitor actions to slow, pause, or cancel spending implemented under the Bipartisan Infrastructure Law (BIL) and Inflation Reduction Act (IRA) related to wind, solar, utility storage batteries, and transmission lines. While the legislative landscape is uncertain, there may be efforts to rescind or amend provisions of the BIL or IRA. Even if such legislative efforts do not come to pass, much can be done through executive order and similar executive action to potentially

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stymy new grants and weaken related tax incentives.

4. **Energy.** Anticipate early efforts to open more federal lands to new oil and gas leases and pipelines and potential support for additional nuclear energy development. President Trump has also committed to speeding up energy development and criticized the Biden administration's efforts to rush the renewable energy transition. President Trump has pledged to withdraw the United States from the Paris Agreement again and eliminate the Biden administration executive order pausing LNG exports. It remains to be seen if the Trump administration will actively seek to restrict or rescind approvals of renewable energy projects. The future role of carbon capture and sequestration projects onshore and offshore is also uncertain.
5. **Infrastructure.** Transportation (particularly highways) and other critical infrastructure projects will likely command continued federal attention and resources, particularly in the wake of recent natural disasters. It is unclear whether the build-out of electric vehicle infrastructure will stall. These developments may be influenced by Elon Musk, if he takes a role in the new administration. CEQ, DOI, and other agencies will likely reassess and work to roll back recent changes to regulations implementing environmental statutes.
6. **Enforcement.** While the Trump administration is not likely to dramatically upend existing enforcement cases, including any existing consent decrees or associated injunctive relief, we may see a pull back on [EPA's Benzene Enforcement Initiative](#), including [BWON and QQQ noncompliance](#), [criminal enforcement policies](#), climate-related enforcement initiatives, and expansion of Superfund liability to include emerging contaminants like PFAS. In the next few months, we may see a rush to complete [Integrated Risk Information System \(IRIS\) values that are underway](#), which would embed the hyper-precautionary principles ushered in during the Obama administration and redoubled by President Biden, which shape rules and enforcement priorities. Companies may also find that new or ongoing enforcement actions may be delayed while Trump's agency teams and leadership get up to speed on existing enforcement efforts during transition.
7. **Federal-state coordination.** Anticipate the potential withdrawal of certain federal participation in coordinated state-federal environmental efforts, with exceptions of some matters where the Trump administration may join forces with conservative states on enforcement and implementation of policy priorities. "Cooperative federalism" was a staple of the first Trump administration, which favored more deference to state authority and a narrow interpretation of the scope of federal statutory authority. Expect a second Trump EPA and DOJ to renew this posture, except around key Trump administration priorities, such as stepping back from disputes over state implementation plans, accelerating permitting, and reducing regulations on fossil fuel and industrial growth. At the same time, expect more liberal states to seek to fill any perceived gaps left by reduced federal efforts with aggressive rulemaking and attorney general-led enforcement and litigation.
8. **International engagement.** Prepare for the withdrawal of engagement on international environmental and waste treaties, as the Trump administration prioritizes domestic development, tariffs (and potential restrictions on imported goods), and increased exports of domestic natural resources, including oil and LNG. This includes the United States' withdrawal from the Paris Agreement and implications to ongoing international conversations around global emissions reductions and the regulation of plastics.

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9. **New key administration officials.** Pay attention to new key officials in the new Trump administration, some of whom will likely be announced in December. Generally, cabinet-level officers are announced first. Expect the Republican-controlled Senate to be receptive to President Trump's nominations for Administrator of EPA (reviewed by the Senate Environment and Public Works Committee), Secretary of Energy (reviewed by the Senate Energy and Natural Resources Committee), Secretary of Labor (reviewed by the Health, Education, Labor, and Pensions Committee), Secretary of the Interior (reviewed by the Energy and Natural Resources Committee), and Secretary of Transportation (reviewed by the Commerce, Science, and Transportation Committee).

## Immediate (Pre-Inauguration) Considerations

### Transition Process

President Trump has an established transition team with two co-chairs and several advisors. The leaders are as follows:

- **Howard Lutnick**  
Transition Co-Chair, Chairman and CEO of Cantor Fitzgerald, a financial services firm
- **Linda McMahon**  
Transition Co-Chair, Former head of the Small Business Administration during the first Trump administration
- **Donald Trump, Jr.**  
Son of President-elect Trump
- **Eric Trump**  
Son of President-elect Trump
- **Robert F. Kennedy, Jr.**  
Former presidential candidate
- **Tulsi Gabbard**  
Former Democratic Representative of Hawaii
- **JD Vance**  
Vice President-elect

President Trump has also indicated potential support for several individuals in leadership roles of his administration, including Doug Burgum (Governor of North Dakota), Vivek Ramaswamy (former presidential candidate and pharmaceutical executive), Lee Zeldin (U.S. Representative from New York), Robert Lighthizer (former U.S. Trade Representative), and Elon Musk (technology entrepreneur).

We anticipate the Trump transition team will soon sign a memorandum of understanding with President Biden's General Services Administration to begin planning for a handover of power. The document is required under the Presidential Transition Act and formalizes how the federal government will go about assisting Trump's transition team ahead of both Election Day and Inauguration Day.

The transition team traditionally establishes "landing teams" to meet with each federal agency to collect information and interview selected individuals to prepare for the new administration. Those landing teams are not agency officials and do not receive confidential or privileged information but are extraordinarily valuable to the new administration. They report regularly to the incoming White House on immediate issues facing the administration and provide an important conduit between the

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incoming President's team and the executive agencies.

## **Personnel**

While the Trump landing and transition teams will soon ramp up the pace of their work, the Biden administration still has nearly three months with which to complete its work.

It is typical for almost all outgoing administration political appointees to resign before the new administration starts. The exception is often the U.S. Attorneys, who are sometimes held over in their positions. At the beginning of a new administration, political positions are either temporarily filled by political appointees or often with senior career officials.

Ensure that your relationships with career officials at headquarters and regional offices are sound, as you will need to rely on them as appointed positions change over the next six months.

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