

The impact of a second Trump term on environmental and climate change policy

December 9, 2024 | Client Update | 21-minute read

Armed with Republican control of Congress, President-elect Trump hopes to implement his environmental policy priorities, consisting of support for domestic fossil fuels production and manufacturing and opposition to the Biden administration's climate agenda. These goals will likely face challenges, including effectively employing executive authority, maintaining Republican unity with respect to legislation, and resolving policy differences between the White House and congressional Republicans.

For the third consecutive time, the U.S. presidential election resulted in a shift in power in Washington, this time handing the Republicans control of the White House and both chambers of Congress. Like the prior two elections, this will give President-elect Donald J. Trump and his Republican colleagues the opportunity to implement their environmental policy priorities, broadly consisting of support for domestic production of fossil fuels and manufacturing and opposition to the Biden administration's environmental and climate agenda. This time, however, these goals are coupled with an ambitious, novel agenda to drastically cut federal regulation and spending. These goals will likely face challenges, including the difficulty of effectively employing executive authority and the rulemaking process, maintaining Republican unity with respect to legislative initiatives, and resolving important policy differences among constituencies within the Trump White House and Republicans in Congress.

Trump and congressional Republicans' environmental agenda

While President-elect Trump did not articulate many specific environmental priorities during his campaign, the general contours of his environmental agenda are clear from several core themes of his candidacy, the policy initiatives of the first Trump administration and the legislative agenda of Republicans in Congress. These include:

- increasing domestic production of fossil fuels
- low-cost electricity to support increasing demand from AI technologies and cryptocurrency operations
- promoting domestic automobile manufacturing
- opposition to the Biden administration's climate agenda, including its support of renewable energy and electric vehicles
- opposition to environmental, social and governance (ESG) priorities

In addition, President-elect Trump announced ambitious plans to drastically reduce the size of the federal government by, among other things, rescinding federal regulations through an initiative dubbed the Department of Government Efficiency (DOGE) led by Elon Musk and Vivek Ramaswamy.

In certain respects, President-elect Trump's priorities may be at odds with his supporters or congressional Republicans. For example, while Trump has been consistently critical toward solar and wind energy at his rallies, Republicans have

traditionally adopted an “all of the above” approach to energy and many Republican members of Congress have expressed support for federal incentives for renewable energy and clean technologies that have resulted in economic development in their districts. President-elect Trump has also opposed Biden administration policies in support of electric vehicles, notwithstanding the prominent role given to Elon Musk in the incoming administration. Similarly, President-elect Trump’s nominee to head the Department of Health and Human Services, Robert F. Kennedy Jr., has been a vocal opponent of pesticides and food additives, while the first Trump administration and Republicans have generally favored less chemical regulation. How these conflicts will be resolved remains to be seen.

Legal framework for implementing President-elect Trump’s environmental agenda

With control of both chambers of Congress (albeit with slim majorities), President-elect Trump will have a range of tools for implementing his agenda. However, the legal framework for doing so has built-in mechanisms that will likely place limitations and constraints on the speed and scope of his administration’s efforts to roll back or revise existing law and regulation.

Rolling back or revising regulation

- **Revising most regulations requires notice and comment rulemaking.** Unless a rule is subject to repeal under the Congressional Review Act (CRA) by the incoming Congress (as discussed below, this generally includes rules finalized August 2024 or later), revising or repealing an existing regulation will require the same public notice and comment process under the Administrative Procedure Act applicable to any rulemaking. This is a bureaucratically fraught process that typically involves lengthy stakeholder engagement, information gathering and technical analysis that can take years to complete. For example, a key Biden administration priority, replacing regulations on greenhouse gas emissions from power plants issued by the Environmental Protection Agency (EPA) during the first Trump administration, took nearly the entire presidential term to complete.

In addition, environmental regulations are generally not issued on a blank slate. They are typically supported by statutory requirements, case law and extensive factual records. Simply repealing or drastically scaling back existing regulations may be legally problematic. Moreover, while *Loper Bright Enterprises v. Raimondo*, the U.S. Supreme Court’s recent decision overruling *Chevron U.S.A. Inc. v. Natural Resources Defense Council*, may make existing federal regulations more vulnerable to judicial review, that decision also can complicate efforts to revise or repeal existing federal regulations. *Loper* specifically criticized the lack of stability in the law fostered by *Chevron* as a basis for the Court’s decision: “Under *Chevron*, a statutory ambiguity, no matter why it is there, becomes a license authorizing an agency to change positions as much as it likes... By its sheer breadth, *Chevron* fosters unwarranted instability in the law, leaving those attempting to plan around agency action in an eternal fog of uncertainty.” Under *Loper*, federal agencies in the incoming administration will have to justify the revision or repeal of an existing rule on the basis that the rule is based on an incorrect interpretation of a statute or is otherwise unlawful.

- **Regulations finalized August 2024 or later can be repealed.** Under the CRA, regulations delivered to Congress after the period beginning 60 session days prior to the adjournment of Congress can be reversed by the incoming Congress with the passage of a resolution by a simple majority in each chamber and signed by the President. This period began on August 1, 2024, according to the [latest estimate by the Congressional Research Service](#). However, as discussed further below, the number of significant environmental regulations that are likely candidates for repeal under the CRA is limited.
- **Proposed regulations can be abandoned without formal rulemaking.** Biden administration rules that have not been published by the date President-elect Trump formally takes office can generally be abandoned without formal rulemaking. Incoming presidents typically issue a moratorium upon taking office pausing action on any pending non-final regulations, and we would expect President-elect Trump to follow this practice.
- **DOGE’s proposed approach to cutting existing federal regulations.** In a [recent op-ed](#), Musk and Ramaswamy outlined a novel plan for how DOGE would cut existing federal regulations: legal experts would identify regulations determined to be unlawful, which the President would “nullify” via executive action by pausing enforcement of those regulations while the formal process to rescind them proceeds. However, the legal viability of this approach is subject to question. While the executive branch has significant discretion in setting enforcement priorities, a wholesale pause of enforcement will no doubt be challenged in court. Moreover, regulations subject to a federal enforcement moratorium may nonetheless support state-level enforcement or citizen suits by advocacy groups under certain circumstances. An enforcement pause may therefore fail to provide the regulated community with sufficient certainty regarding their compliance obligations. And as noted above, the process for repealing existing regulations is subject to the time-consuming notice and comment process required by applicable law.

Revising or enacting legislation

Legislation requires a majority in the House of Representatives and the Senate to pass through Congress. However, Senate debate rules require 60 votes to move most categories of legislation forward and overcome a filibuster—a procedural tactic used to delay or block legislation. Given the slim Republican margin in the Senate, legislative agenda items subject to these debate rules will require some bipartisan support. Moreover, Republicans are expected to have a razor-thin majority in the House, leaving little room for defections to pass legislation.

A narrow category of legislation—those subject to the reconciliation process—is not subject to the 60-vote Senate debate rule. The contours of this category are subject to interpretation but generally include legislation relating to the federal debt limit, revenues, or spending. Nonetheless, prior administrations have used this procedure to pass significant legislative initiatives, including the Affordable Care Act and the Inflation Reduction Act (IRA). We would expect the incoming administration to seek to use this tool expansively to pursue legislative objectives as long as a Republican majority in Congress is maintained.

Executive action

The Biden administration's environmental policies effected by executive orders or executive actions can be reversed by President-elect Trump unilaterally without rulemaking. This would include President Biden's order to rejoin the Paris Agreement and the Department of Energy's moratorium on approvals of liquefied natural gas exports.

President-elect Trump's nominees for key environmental and energy agencies

President-elect Trump's nominees to lead the key agencies responsible for environmental and energy regulations largely reflect his policy views. These nominations are subject to confirmation by the Senate.

- **EPA Administrator: Lee Zeldin.** As a former New York Republican Congressman, Zeldin generally opposed environmental restrictions on the oil and gas industry, although he has supported standards for per- and polyfluoroalkyl substances (PFAS) in drinking water. He also advocated for policies to increase U.S. energy production and boost the domestic auto industry during the presidential campaign.
- **Department of the Interior Secretary: Doug Burgum.** As the former governor of North Dakota, Burgum has been a proponent of oil and gas drilling, although he also promoted carbon capture technologies to reduce GHG emissions from fossil fuel production. If confirmed, Burgum will be the chair of President-elect Trump's National Energy Council, a new council established by President-elect Trump that is anticipated to oversee all federal agencies responsible for energy regulation.
- **Department of Energy Secretary: Chris Wright.** Wright is the chief executive of an oil and gas company and has been an advocate for increased domestic production of oil and gas and hydraulic fracturing. If confirmed, Wright would also serve on the National Energy Council.

Key environmental priorities of the second Trump administration

Climate change and GHG emissions

- **Withdrawal from the Paris Agreement.** During his first term, President-elect Trump issued an executive order withdrawing the United States from the Paris Agreement, a 2015 agreement by the parties to the UN Climate Change Conference to limit global temperature increase to well below 2 degrees Celsius over pre-industrial times by submitting national targets for GHG emissions reductions. The Biden administration rejoined the Paris Agreement in 2021, but President-elect Trump has indicated he intends to once again withdraw the United States from the pact.
- **SEC's climate disclosure rules.** In March 2024, the SEC adopted [final rules](#) in a 3-2 vote along party lines that mandate significant new disclosures for public companies relating to climate-related risks, GHG emissions, and climate-related financial metrics. Legal challenges were filed soon after the rules were adopted, and the SEC issued

an [order](#) in April 2024 staying the rules pending resolution of litigation.

During the campaign, President-elect Trump [criticized these rules](#), and we expect his administration will take steps to undo them. Once Trump nominees are confirmed by the Senate (resulting in a Republican-controlled SEC), we expect the SEC will commence the process of repealing the climate disclosure rules by initiating notice and comment rulemaking. We also expect the SEC to seek to maintain the current administrative stay—or otherwise delay implementation or enforcement of the rules—until a repeal rule is finalized.

- **EPA’s 2024 power plant GHG emissions rules.** One of the major environmental developments of President-elect Trump’s first term was the repeal of the Obama administration’s Clean Power Plan, a rule that would have mandated a shift in energy generation from higher GHG emitting sources to lower and zero GHG sources, and its replacement with the Affordable Clean Energy (ACE) rule, which would have only mandated efficiency measures by coal-fired power plants. In May 2024, EPA under the Biden administration finalized new rules replacing the ACE rule with rules requiring existing fossil fuel-fired steam generating units and new fossil fuel-fired combustion turbines to reduce GHG emissions, including through carbon capture and sequestration in some cases. President-elect Trump has stated he intends to “terminate” these latest rules. Since regulation of GHG emissions from power plants is driven by statutory requirements under the Clean Air Act and U.S. Supreme Court precedent, as in the first Trump administration, EPA may instead decide to replace the existing rule with less stringent requirements (such as the ACE rule) rather than abandoning regulation of GHG emissions from power plants entirely.

– Methane emissions

- **EPA’s oil and gas methane emissions rule.** In December 2023, EPA finalized a rule regulating methane and volatile organic compounds emissions from new and existing oil and gas facilities. This rule would significantly limit these emissions in various ways, including leak detection and repair requirements, restrictions on flaring and venting of methane, and third-party monitoring of large emissions events. While the Trump campaign did not explicitly mention this rule and it seems to have some support from larger oil and gas companies, boosting domestic oil and gas production was a key theme of President-elect Trump’s election campaign. We note that under the first Trump administration, EPA scaled back the Obama administration’s rules on methane emissions from new oil and gas facilities and halted rulemaking efforts aimed at existing facilities. Accordingly, we expect that this rule will be targeted for revision by EPA under a second Trump administration.
- **Methane fee under the IRA.** The IRA established the Methane Emissions Reduction Program, which includes a fee (starting in 2025) on methane emissions that exceed certain defined thresholds from onshore and offshore oil and natural gas facilities that are subject to EPA’s GHG reporting rule. In November 2024, EPA finalized a rule implementing this program. Given that this rule is well within the “lookback period” under the CRA discussed above, it is vulnerable to repeal via a joint congressional resolution.

However, because the methane fee is explicitly required by statute, a CRA resolution repealing the rule would still leave the underlying statutory provisions in place, which would appear to obligate EPA to promulgate a replacement rule implementing the fee. Accordingly, repealing the fee entirely may require legislation amending the IRA itself. Given that the IRA was passed via the reconciliation process, thereby avoiding Senate debate rules that would have required 60 votes to move the legislation forward, Republicans will likely seek to use the same procedure for any amendments to the IRA during the coming congressional session.

– Vehicle GHG emissions

- **EPA vehicle emissions and fuel economy standards.** President-elect Trump’s [campaign website](#) includes commitments to repeal certain EPA vehicle emissions rules, including the “April 2023 emission regulations for light, medium, and heavy-duty vehicles,” likely referring to EPA emissions standards that were proposed in 2023 and finalized in 2024 for model years 2027-2032, as well as President Biden’s “CAFE fuel economy standards,” likely referring to the most recent Corporate Average Fuel Economy Standards, which were finalized in June 2024.
- **Pending California waivers for low and zero emissions vehicles.** California currently has waiver requests pending before EPA relating to a number of vehicle regulations, including rules requiring all cars sold in the state to be zero emissions by 2035 and all truck fleets to be zero emissions by 2045. These waivers give California authority under the Clean Air Act to adopt vehicle emissions standards that are more stringent than federal standards and give other states the right to adopt them. While news reports indicate that EPA plans to grant these waivers before the end of President Biden’s term, President-elect Trump vowed to oppose any state-level ban on gas-powered cars, suggesting that he would seek to revoke these waivers if they were to be issued before his term begins. Note that while any approval of these waiver requests by EPA before the end of President Biden’s term in office would occur within the CRA lookback period, a November 2023 [decision](#) by the Government Accountability Office concluded that action on a waiver request is not considered a rule subject to the CRA.

- **Social cost of carbon.** A centerpiece of the Biden administration’s climate change policy agenda was its calculation of the social cost of GHG emissions via their effect on climate change. This cost is used as an input in determining the impact of policies relating to climate change. The estimate released by EPA in November 2023 nearly quadrupled the estimate used previously thereby providing stronger support for any regulatory action favoring lower GHG emissions. Although the Trump campaign did not explicitly address this issue, the environmental section of the Heritage Foundation’s Project 2025 policy recommendations, authored by an EPA policy advisor during the first Trump administration, proposes ending the use of a social cost of carbon in rulemaking via executive order as a “day one priority.”

ESG

- **Pension funds and ESG investing.** In a video on his campaign website, President-elect Trump committed to “ban ESG investments through executive order and work with Congress to enact a permanent ban,” which we believe to be a reference to the 2022 rule issued by the Department of Labor under the Biden administration providing that an ERISA fiduciary’s assessment of an investment’s potential risks or returns can include ESG factors. The 2022 ESG rule is being challenged in the courts, and we expect that the new Trump administration will not defend the rule. Further, this campaign promise may signal an intention to rewrite the rule by reverting to the ESG rule issued during the first Trump administration that de-emphasized the role of ESG in an ERISA fiduciary’s investment decisions (but didn’t ban ESG).
- **Other potential ESG policies.** It isn’t clear what other anti-ESG initiatives a second Trump administration may adopt. For example, congressional Republicans and several states have investigated financial institutions for their participation in ESG- or climate change-focused alliances as anti-competitive. Similarly, during the first Trump administration, the Justice Department opened an antitrust inquiry into four major automakers for a pact with California to reduce automobile emissions. Whether a second Trump administration follows a similar approach remains to be seen.

Climate change and cleantech

- **IRA tax credits and investments for clean energy.** President-elect Trump has expressed strong opposition to the clean energy provisions of the IRA, committing to halt “all new spending grants and giveaways under the Joe Biden mammoth socialist bills like the so-called Inflation Reduction Act.” While it isn’t entirely clear whether he opposes all of the tax credits and investments under the IRA, press reports indicate that the incoming administration would seek to repeal the federal tax credit of up to \$7,500 for purchase of certain electric vehicles. Notably, news reports indicate that Elon Musk supports this position notwithstanding his leadership role in the electric vehicles industry. In contrast, Trump has expressed support for some technologies that benefit from tax credits or other incentives under the IRA, such as nuclear energy. For example, President-elect Trump’s campaign website pledges to “support nuclear energy production ... by modernizing the Nuclear Regulatory Commission, working to keep existing power plants open, and investing in innovative small modular reactors.”

Efforts to repeal the tax credit and investment provisions of the IRA will be challenging. Repealing the IRA would require a majority of votes in both the House and the Senate. While all 50 Republican senators voted against the IRA when it was passed in 2022, the IRA has since garnered some Republican support. One study found that an estimated 60% of all projects created, 85% of total investments, and 68% of jobs are located in Republican congressional districts. According to another study, at least \$206 billion of investments in clean technology manufacturing have been announced as of April 2024, \$161 billion of which is going to Republican districts. In August 2024, a group of 18 House Republicans signed onto a letter asking House Speaker Mike Johnson to spare the energy tax credits from any attempts to modify the IRA. The letter expressed concern that repealing sector-wide energy tax credits, particularly those used to justify investments that already broke ground, would undermine private investments and stop ongoing development. 14 of the 18 Republicans who signed onto the letter remain in the House, which is more than enough to block passage of legislation. In response to the letter, Speaker Johnson said he would consider using “a scalpel rather than a sledgehammer” when revising the IRA, acknowledging the need to seek consensus of moderate Republican House members.

Domestic energy development

- **Biden administration’s pause of LNG export approvals.** In January 2024, the Biden administration announced a pause on pending decisions by the Department of Energy on exports of liquefied natural gas (LNG) to non-free trade agreement countries while the impact of LNG on climate change (among other things) is studied further. This pause

was stayed by the U.S. District Court for the Western District of Louisiana in July 2024. During his campaign, President-elect Trump stated that he would lift the Biden administration's pause. Given the pause is not a formal rulemaking, the incoming administration will be able to reverse it via executive action.

- **Increase in energy development on onshore and offshore federal property.** President-elect Trump is expected to expand exploration and production of oil and gas on federal property. He pledged during his campaign to increase oil and gas exploration on federal lands and waters by opening up more areas to leasing, holding sales more frequently and expediting the permitting process (see below) and has specifically discussed plans to restore drilling in the Arctic National Wildlife Refuge.
- **Permitting reform.** As part of his push to increase energy development, President-elect Trump has pledged to “remove all red tape that is leaving oil and natural gas projects stranded, including speeding up approval of natural gas pipelines into the Marcellus Shale in Pennsylvania, West Virginia, and New York” and “stop[ping] the wave of frivolous litigation from environmental extremists that hold up critical energy development projects for years.” These statements appear to refer to reviews under the National Environmental Protection Act (NEPA) and its implementing regulations, which require federal agencies to consider the environmental impacts of their decisions. President-elect Trump is likely to seek to revise regulations under NEPA to ease the approval of these projects.

Some congressional Republicans are also considering plans to reform permitting through legislation, which would presumably include amendments to NEPA itself. Proposed legislation has included restrictions on litigation challenges based on NEPA and limits on requirements to consider climate change impacts. Proponents of reform legislation would have to use the reconciliation process to avoid having to negotiate the legislation with Senate Democrats. However, whether the legislation would meet requirements for reconciliation is an open question.

Other environmental policy issues

- **Waters of the United States (WOTUS) Rule.** The concept of “waters of the United States” is key for defining the scope of water bodies (in particular, wetlands) that are subject to regulation under the Clean Water Act. This definition has been the subject of much controversy, litigation and rulemaking over the last decade. In January 2023, EPA and the Army Corp of Engineers under the Biden administration finalized a rule significantly expanding the scope of this definition; this 2023 rule replaced a 2020 Trump administration rule (the Navigable Waters Protection Rule) that used a narrower definition. However, in May 2023, the U.S. Supreme Court in *Sackett v. EPA* held that wetlands are only considered “waters of the United States” if they have a continuous surface connection to relatively permanent bodies of water connected to traditional interstate navigable waters. In August 2023, EPA revised its January 2023 rule to conform with the *Sackett* definition. While Project 2025 recommends revising the 2023 rules, because these rules have already been revised to incorporate the *Sackett* definition, any revisions must conform with the current U.S. Supreme Court definition.
- **PFAS and lead in drinking water.** Although President-elect Trump regularly stressed the importance of ensuring “crystal clear” water throughout his campaign, it is unclear how his administration will address specific Biden administration policy initiatives relating to drinking water protections. These include EPA’s April 2024 regulations relating to PFAS in drinking water and October 2024 regulations requiring drinking water systems to identify and replace lead pipes within 10 years (which, based on the date it was finalized, could be subject to repeal under the CRA). As noted above, President-elect Trump’s nominee to head EPA, Lee Zeldin, voted in favor of several bills regulating PFAS as a member of Congress and key advisor, Robert F. Kennedy Jr., has been a longtime advocate for protecting drinking water and the food supply from chemicals he believes are harmful. Kennedy, however, has been nominated to be secretary of the Department of Health and Human Services, which does not have jurisdiction over federal environmental policy.

The incoming Trump administration’s environmental agenda and the courts

As was the case in his first term, President-elect Trump will likely continue to appoint conservative judges to the federal judiciary, including potentially the U.S. Supreme Court. During his first term, then-President Trump appointed hundreds of federal judges, including three U.S. Supreme Court justices, who established legal precedents that had the effect of restricting EPA’s authority to develop regulations under federal environmental statutes, such as the major questions doctrine and the reversal of *Chevron*. A second Trump term could have the effect of further entrenching these precedents into law and lead to the adoption of doctrines that further hamstring the administrative state, such as the non-delegation doctrine, which would place constitutional limits on Congress’s ability to delegate authority to federal agencies.

However, President-elect Trump's potential impact on the federal judiciary may not be as dramatic as his first term given there are currently fewer judicial vacancies. President-elect Trump entered his 2017 term with 117 federal judicial vacancies, and 59 nominations pending, enabling him to appoint more than 200 judges during his four years in office. However, as of December 5, 2024, there are only 38 total vacancies in the federal judiciary, with 8 nominations pending, and President Biden and the Senate Democrats are expected to push for the confirmation of more nominees before the end of the current term.

Potential state responses to the incoming Trump administration's environmental agenda

State-level response to President-elect Trump's environmental regulatory efforts will likely be varied, based on each state's own stance on policy priorities.

- **California is poised to take a lead role among states supportive of environmental regulation in opposing the Trump administration's agenda.** California will likely respond to the Trump administration's policies by continuing to "fill in the gaps" resulting from rollbacks of Biden administration's policies and resisting efforts by the federal government to interfere with its environmental policies in the courts. On November 7, 2024, just days after the election, Governor Gavin Newsom announced a special legislative session to be held in December 2024 to fund legal staff for anticipated litigation against the incoming administration, which will presumably include efforts to protect waivers issued under the Clean Air Act (discussed above) that EPA is expected to revoke. On December 2, 2024, Governor Newsom announced that the state is seeking up to \$25 million in additional funding for legal challenges to "defend against unlawful federal actions" with respect to environmental protection, among other policy areas.

Other states that have traditionally supported pro-climate policies are likely to continue down this path. Voters in several states approved environmental protection measures in November's elections, including a Washington state measure to retain its GHG cap-and-invest program and a Minnesota measure to extend a program protecting air, water, and wildlife, while voters in Wisconsin rejected a proposal to limit a governor's ability to spend federal funds, including for climate initiatives.

- **The future of state anti-ESG initiatives in Republican-led states is unclear.** States with strong anti-ESG policies in place have continued to aggressively pursue financial institutions for their ESG practices. On November 27, 2024, 11 states sued several large asset managers, alleging that their use of ESG factors in investment decisions constitutes illegal collusion that is constraining the supply of coal, thereby driving up the price of electricity. These efforts could be boosted if the federal government initiates its own investigations following similar legal theories. On the other hand, efforts to enact anti-ESG legislation have lost some momentum in state legislatures recently, with dozens of bills failing to pass in 2024. In addition, lawsuits against anti-ESG policies have had some success, including challenges to Missouri regulations requiring securities firms incorporating ESG policies to obtain consent forms from Missouri investors and an Oklahoma law that prohibited the state from investing with financial institutions alleged to discriminate against the oil and gas industry.

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