



ABC's Weekly Federal Legislative Update January 25, 2021

Introduction

This week marks the first full week of Biden Administration. The new President continues to name advisors to the various Executive Departments including many alumni of former Democratic Administrations. All appointees will require the consent of the Senate. While working through these nominations, the Senate will also be receiving the articles of Impeachment from the House. The Senate trial of former President Trump on charges of inciting an insurrection at the U.S. Capitol is scheduled to commence on February 9. Below is news from Washington, D.C.

Administration

[President Biden Outlines Initial Climate Actions](#)

On inauguration day, President Biden began to outline many of his climate objectives including rejoining the Paris Climate Accord. The story below discusses a number the Biden Administration's climate objectives.

Scott Waldman of Climatewire wrote on January 20, "Joe Biden will spend his first hours as president trying to obliterate much of the Trump administration's deregulatory agenda, restore public land protections and reestablish the United States as a global leader on climate change policy.

"Biden will sit in the Oval Office later today and sign a sweeping executive order to rejoin the Paris Agreement and undo President Trump's rollback of greenhouse gas policies, said Gina McCarthy, Biden's national climate adviser.

"We know rejoining [Paris] won't be enough, but along with strong domestic action, which this executive order kicks off, it is going to be an important step for the United States to regain and strengthen its leadership opportunities," McCarthy told reporters late yesterday.

"The process of rejoining the Paris Agreement will begin today with a letter to the United Nations requesting U.S. membership. It will take 30 days for the U.S. to formally reenter the nonbinding global agreement to reduce emissions.

“The administration will also rescind the permit for the controversial Keystone XL pipeline, McCarthy said. The line transports crude from the western Canadian province of Alberta to refineries in Illinois and Texas and to other oil facilities in Oklahoma.

“McCarthy said the pipeline, which was rejected by the Obama administration and then restored by Trump as one of his first actions, works against the administration's plans to aggressively address climate change and grow union jobs in the clean energy sector.

"Climate change is a crisis, and the Keystone pipeline and its construction was not consistent with addressing the climate crisis to the depth and scope that we are planning to address it," she said. "Whatever limited benefit that Keystone was projected to provide now has to be obviously reconsidered with the economy of today."

“The orders are part of a sweeping plan to stop a number of Trump's major initiatives, including the construction of a border wall with Mexico and immigration policies described by Trump's critics as harsh.

“The climate order tomorrow will also initiate a major review of the Trump administration's rollback of environmental and public health protections. It will scrutinize "federal regulations and other executive actions taken during the last four years that were harmful to public health, damaging to the environment, unsupported by the best available science, or otherwise not in the national interest," according to a description of the executive order provided by the Biden transition.

“The review will include the Trump administration's weakening of endangered species protections, forest management, oil and gas emissions standards, and myriad pollution control standards.

“It will also reestablish an interim social cost of carbon schedule to ensure federal agencies account for the full costs of greenhouse gas emissions, "including climate risk, environmental justice and intergenerational equity."

“The executive order includes an immediate review of a number of national monument protections stripped away by Trump at the request of industry, including for Grand Staircase-Escalante, Bears Ears, and Northeast Canyons and Seamounts Marine national monuments.

“It will place a temporary moratorium on all oil and gas drilling in the Arctic National Wildlife Refuge and will advance oil and gas methane regulations, energy efficiency standards for appliances, and the air toxic rule for power plants, McCarthy said.

“It will also review the Trump administration's weakening of vehicle emissions standards.

“Environmental groups praised the announcement yesterday but said more could be done.

"As we celebrate this long delayed victory of people power over the fossil fuel industry, it is important to be clear that truly moving the climate needle forward will require following through on the logic of climate science and Indigenous land rights that makes KXL unacceptable," Rainforest Action Network Executive Director Ginger Cassady said in a statement, referring to the Keystone XL pipeline.

"This means cancelling Enbridge's equally destructive Line 3 tar sands pipeline, as well as the [Dakota Access] pipeline and other oil and gas export projects that would commit our economy to years of future dependence on fossil fuels," Cassady added."

This story also appears in Energywire.

USDA Announces Senior Climate Adviser

President Biden has named Robert Bonnie, a former USDA undersecretary and climate advisor to the role of deputy chief of staff for policy and senior advisor on climate. He will report to Secretary Tom Vilsack. The ABC has worked with Mr. Bonnie in the past.

On January 20, Marc Heller of [E&E News PM](#) submitted, "The head of President Biden's transition team for the Department of Agriculture will become the agency's point man on climate change.

"Robert Bonnie, a former undersecretary of Agriculture and climate adviser during the Obama administration, will be deputy chief of staff for policy and senior adviser on climate in the Office of the Secretary, the department said.

"Bonnie most recently was executive in residence at the Nicholas Institute for Environmental Policy Solutions at Duke University. He was formerly director of the Farm and Forest Carbon Solutions Initiative at the Bipartisan Policy Center.

"With climate change likely to be a major focus of the new administration — including agriculture's contributions and role in solutions — Bonnie is likely to be a key player at USDA. He worked closely before with Tom Vilsack, who's likely to be quickly confirmed to a second tenure as Agriculture secretary.

"Bonnie also co-wrote the Climate 21 Project's report on the presidential transition, recommending policy changes to the incoming administration.

"Bonnie holds a master's degree in forestry and environmental management from Duke University and a bachelor's degree from Harvard College."

[EPA: New Appointees Hop Aboard](#)

The story below discusses many of the new advisors who are joining the EPA.

Greenwire reporter Kevin Bogardus published on January 22, "On President Biden's second day in office yesterday, EPA announced senior agency staff, shook up its leadership ranks and pledged to follow the science.

"In an internal email obtained by E&E News, Dan Utech, the new chief of staff, announced 16 incoming appointees filling out top roles at EPA as well as the program and regional offices' acting leaders.

"Utech also shared several executive orders Biden has already signed, including his order on science and climate change that will have EPA review a number of actions taken by the Trump administration.

"EPA will be at the heart of this work, and we will be guided by science as we move to achieve these goals and address other threats to public health and the environment," he said in the email sent last night.

"Utech is an Obama administration alum, having served as deputy assistant to the president for energy and climate change. He helped to implement President Obama's Climate Action Plan and oversaw the administration's climate and energy strategy.

"Utech also was a senior adviser to Energy Secretary Steven Chu and a senior adviser to former Senator Hillary Clinton (D-NY) for energy and environmental issues. He comes to EPA from Climate Strategies, a consulting firm he founded.

"In his email to staff, Utech noted that Biden had signed another executive order to revoke an order by President Trump that targeted race- and sex-related training at federal agencies, including EPA. Staff at the agency had protested Trump's order, which was issued in September last year.

"Utech said Biden also signed a separate order mandating masks and social distancing in federal buildings for protection against the COVID-19 virus.

"He noted this wasn't a change in the EPA workforce's telework status but rather a step to protect staff who have to work on-site. The vast majority of the agency's employees have been teleworking since March as the pandemic took hold in the United States.

"Utech also shared a video message from Biden thanking federal employees.

"I know that the work of EPA relies on the dedicated professionals who carry the agency's mission forward from one Administration to the next," Utech said. "Thank you for your ongoing service to EPA and our country, and for your efforts to protect Americans' health and our environment."

Administrator's office

“Along with Utech as chief of staff, EPA named several Biden appointees to serve in the administrator's office:

- Victoria Arroyo, associate administrator for policy, had served as the Georgetown Climate Center's executive director for 12 years. Arroyo was also a vice president at the Pew Center on Global Climate Change. She is returning to EPA, having served in its air and research offices before, and also has been policy director for the Louisiana Department of Environmental Quality.
- Philip Fine, principal deputy associate administrator for policy, comes to EPA after 15 years with the South Coast Air Quality Management District in Southern California. With a doctorate in environmental science and engineering, Fine served on the California Air Resources Board's Research Screening Committee and on several EPA Clean Air Scientific Advisory Committee expert panels.
- Alison Cassady, deputy chief of staff for policy, most recently served as deputy staff director for the House Select Committee on the Climate Crisis. She also was the managing director of the Center for American Progress' energy and environment team and has served on other House committees, including Energy & Commerce and Oversight & Government Reform.
- Lindsay Hamilton, associate administrator for public affairs, comes from Climate Nexus, where she helped lead national media strategy. Once with ABC News early in her career, Hamilton has been the chief spokesperson for George Washington University and a vice president with the Center for American Progress. She also served as staff in the House and Senate.
- Rosemary Enobakhare, associate administrator for public engagement and environmental education, was director of campaigns at the Hub Project and also worked at the Clean Water for All Campaign. Enobakhare is returning to EPA, having already served as a deputy associate administrator for the engagement office.
- Radha Adhar, deputy associate administrator for congressional affairs, comes to EPA from the office of Senator Tammy Duckworth (D-Ill.), where she served as a senior policy adviser for energy, environment and science. Adhar has also worked at the Sierra Club and the Natural Resources Defense Council.
- Casey Katims, deputy associate administrator for intergovernmental affairs, was Washington Democratic Gov. Jay Inslee's director of federal and interstate affairs, handling the state's engagement with Congress, the White House, federal agencies and other governors. Katims has also been a policy adviser to Representative Suzan DelBene (D-Wash.).
- Sinceré Harris, the White House liaison, has been the Pennsylvania Democratic Party's executive director since 2015. Harris, who served on Biden's transition team for EPA, was also named Pennsylvania senior adviser for Biden's 2020 campaign.
- John Lucey, special assistant to the administrator, comes to EPA from the North Carolina Department of Environmental Quality, where he started in 2015 as a

legislative analyst. Lucey has served as the state agency's chief strategy officer since 2019.

Air, water, chemicals

Familiar faces will be joining EPA, including in some of its program offices:

- Joseph Goffman, principal deputy assistant administrator for the Office of Air and Radiation and its interim head, worked at that office during the Obama administration, serving from 2009 to 2017 as associate assistant administrator for climate and senior counsel. He then served as Democratic chief counsel on the Senate Environment and Public Works Committee for much of 2017 before becoming executive director of Harvard Law School's environmental and energy law program, according to his LinkedIn profile. As E&E News reported earlier this month, Goffman, who served on Biden's transition team for EPA, was seen as a contender for the Senate-confirmed position of OAR assistant administrator.
- Tomás Carbonell, deputy assistant administrator for stationary sources in EPA's air office, had been with the Environmental Defense Fund since 2012, rising from staff attorney to senior counsel and director of regulatory policy. Before that, he spent four years as an associate at the firm Van Ness Feldman LLP, his LinkedIn profile shows. The administration's decision to give a deputy assistant administrator dedicated responsibility for stationary air pollution sources appears to be new. It's unclear whether the administration now also intends to name a counterpart for cars and other mobile pollution sources.
- Radhika Fox, principal deputy assistant administrator in the water office, has led the U.S. Water Alliance since 2015 and before that served for four years with the San Francisco Public Utilities Commission as its director of policy and government affairs. From 2000 to 2011, she was director of federal policy at PolicyLink in Oakland, Calif.
- In the Office of Chemical Safety and Pollution Prevention, Michal Ilana Freedhoff will serve as principal deputy assistant administrator, an early indicator that EPA's toxics work under Biden will take a radically different approach than in the Trump administration. Freedhoff, who previously worked for Senator Ed Markey (D-Mass.) and served as minority director of oversight for the Senate Environment and Public Works Committee, holds a doctorate in physical chemistry. She worked on the 2016 overhaul of the Toxic Substances Control Act, along with efforts to address per- and polyfluoroalkyl substances (PFAS) contamination and fuel economy provisions in the 2007 Energy Independence and Security Act. With long-running connections to EPA that could prove valuable in her new role, she also served as staff on House committees like Energy & Commerce and Natural Resources.
- Melissa Hoffer, principal deputy general counsel in the general counsel's office, will serve as acting general counsel there. She comes to EPA from the Massachusetts Office of Attorney General, where she led its energy and

environment bureau, overseeing its legal work on environmental enforcement and energy policy as well as litigation in support of EPA's Mercury and Air Toxics Standards.

- Dimple Chaudhary, deputy general counsel for nationwide resource protection programs, comes from the Natural Resources Defense Council, where she served as deputy litigation director, including as lead counsel for community groups dealing with the Flint, Mich., drinking water crisis. She also has been an associate at law firm WilmerHale and clerked for Judge Carol Bagley Amon of the U.S. District Court for the Eastern District of New York.

Build-out ahead

"While EPA has named appointees for several program offices, some were not mentioned in Utech's email, including enforcement, research and solid waste.

"Utech, however, did say more hires would be forthcoming at EPA.

"In the coming days and weeks, we will be building out our leadership team," the chief of staff said. "As we and other members of the new team get up and running, we look forward to learning from you and beginning to work together."

"Biden has picked Michael Regan, secretary of the North Carolina Department of Environmental Quality, for EPA administrator. Regan has not been confirmed yet, and neither has Biden's choice for deputy administrator, Janet McCabe.

"Jane Nishida, a senior career official in EPA's international affairs office, has been named acting administrator until Regan's arrival.

"Also, since top appointees for Biden have been brought in, that has changed up who will lead several of EPA's offices from what was planned by Trump appointees just earlier this week.

"Now Biden's political appointees will lead the air, chemicals, water and policy offices as well as the general counsel's office on an acting basis.

"Many of those positions require Senate confirmation. Beyond Regan and McCabe so far, Biden has not announced plans to nominate anyone else for EPA positions.

"The acting leaders:

- Acting administrator: Jane Nishida
- Office of the Chief Financial officer: David Bloom
- Office of Air and Radiation: Joseph Goffman
- Office of Water: Radhika Fox
- Office of Land and Emergency Management: Barry Breen

- Office of Chemical Safety and Pollution Prevention: Michal Freedhoff (as of Jan. 25)
- Office of Research and Development: Jennifer Orme-Zavaleta
- Office of General Counsel: Melissa Hoffer
- Office of Enforcement and Compliance Assurance: Larry Starfield
- Office of International and Tribal Affairs: Mark Kasman
- Office of Mission Support: Donna Vizian
- Office of Policy: Victoria Arroyo
- Office of Congressional and Intergovernmental Relations: Robin Richardson
- Office of Public Engagement and Environmental Education: Rosemary Enobakhare
- Office of Public Affairs: Lindsay Hamilton
- Region 1: Deb Szaro
- Region 2: Walter Mugdan
- Region 3: Diana Esher
- Region 4: John Blevins
- Region 5: Cheryl Newton
- Region 6: David Gray
- Region 7: Edward Chu
- Region 8: Deb Thomas
- Region 9: Deb Jordan
- Region 10: Michelle Pirzadeh
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Reporters E.A. Crunden, Hannah Northey and Sean Reilly contributed.

[RFS: Appeals Court Temporarily Blocks EPA Waivers](#)

Last week, biofuels groups petitioned the U.S. Court of Appeals for the District of Columbia Circuit for a stay of three small refinery exemptions issued during the last days of the Trump Administration. The groups asked for a stay of these SREs until the U.S. Supreme Court resolves a related case.

Marc Heller of [Greenwire](#) wrote on January 21, "A federal court today put a hold on EPA's latest small refinery exemptions (SREs) from federal biofuel-blending rules, responding to an emergency request from the ethanol industry.

"The emergency stay ordered by the U.S. Court of Appeals for the District of Columbia Circuit means EPA can't act on three exemptions it ordered on the last day of the Trump administration, at least for several weeks.

"Biofuel groups said the exemptions, which EPA grants under a hardship-waiver provision of the renewable fuel standard, run afoul of the law and shouldn't have been considered until a related case is resolved at the Supreme Court later this year. Senator Chuck Grassley (R-IA) today called the three new exemptions a "disgrace."

“The court gave EPA until Feb. 3 to respond to the filing by the Renewable Fuels Association, with further filings due by Feb. 10.

“The exemptions will be in limbo until the court has “sufficient opportunity to consider” the RFA's emergency request, the court said.

“Today's ruling adds another twist to the long-running lobbying battle over requirements that refiners blend ethanol or other biofuel into gasoline — or buy renewable fuel credits as an alternative. The Trump administration awarded dozens of economic-hardship waivers to small refineries over four years, but President Biden's campaign criticized them as a giveaway to the oil industry.

“We took this action immediately to prevent the agency from doing further economic damage to an industry already reeling from the impacts of COVID-19,” said RFA President and CEO Geoff Cooper on Tuesday as his organization filed its motion to halt the exemptions.

“Refiners are hurting as well, industry groups say, with reduced consumer demand for fuel during the pandemic, as well as sharply higher prices for the renewable fuel credits.

“Refiners and their allies on the issue say hardship waivers are necessary in cases where prices for renewable fuel credits spike, as they have occasionally. At times, companies say, the credits have exceeded labor as a small refinery's top expense, and lawmakers intended the waivers as a safety net.

“Supporters of the RFS dispute that assessment.

“Congress wrote the exemptions into the RFS — part of the Clean Air Act — as a way to help small refineries adjust to the new biofuel mandates in the program's early years and not to become available every year to any refinery that can make a case as long as the RFS continues.

“In a reflection of the biofuel industry's troubles, the Iowa Renewable Fuels Association today said ethanol production fell by 12% in that state in 2020, a drop of 500 million gallons.

“The group blamed the pandemic, the refinery exemptions and trade disruptions for the decline.

“While a pandemic is unpredictable and trade disputes are difficult to resolve, there are steps that our leaders can take today to begin to heal the demand destruction done to Iowa's ethanol producers,” said Iowa Renewable Fuels Association Executive Director Monte Shaw. “President Biden can instruct his EPA to properly enforce the RFS as Congress intended.”

“EPA's response to the new SRE challenge could offer hints about its approach to biofuel policy over the next few years. But that's hard to tell for sure, a refining industry source told E&E News, because the agency doesn't identify which refineries receive exemptions, nor EPA's reasoning.

“If the exemptions in question are extensions of ones from prior years, that could adhere to last year's ruling in the 10th U.S. Circuit Court of Appeals that limited exemptions. That is the case the Supreme Court agreed to take up this spring.

“The D.C. court's action today could be encouraging for ethanol groups, Grassley said in a call with agricultural reporters, if it foreshadows a more skeptical approach to refinery exemptions by the Biden administration.

“But the pending case at the Supreme Court has Grassley and others nervous. Normally, Grassley told reporters, the Supreme Court only takes a case from a circuit court when there's disagreement at that level, which isn't the situation this time.

"I can't believe they're taking it up," said Grassley, who supports the 10th Circuit's ruling against exemptions and said he hopes Biden's EPA follows it. "It worries me that they're taking it up."

[Department of Transportation: Biden Taps Climate Expert, Eyes Clean Car Rules](#)

President Biden appointed two California-based climate experts to National Highway Traffic Safety Administration. One of the recent appointees is on record supporting the phase out of gas powered vehicles.

On January 21, Maxine Joselow of [Greenwire](#) submitted, “President Biden today named two California-based climate experts to top roles at the Department of Transportation.

“The appointments signal Biden's commitment to look to the Golden State to establish aggressive nationwide clean car standards. The California Air Resources Board has set greenhouse gas standards for automobiles that are more stringent than federal rules.

“Steve Cliff, the deputy executive officer at CARB, was named deputy administrator of the National Highway Traffic Safety Administration.

“NHTSA (pronounced "NIT-suh") is the division of DOT tasked with setting fuel economy standards for passenger cars and light trucks.

“Cliff came to CARB in 2008, leading the development of the state's cap-and-trade program for greenhouse gases.

“He left the board from 2014 to 2016 for a stint as the first director of sustainability at the California Department of Transportation under then-Gov. Jerry Brown (D).

“Cliff returned to CARB as senior adviser to then-Chair Mary Nichols and later as deputy executive officer, according to a bio on the board's website.

“Asked for comment, CARB Executive Officer Richard Corey said in an email to E&E News: "Dr. Cliff has played an integral role in leading California's actions to clean the air and protect public health. He is uniquely suited to work with states, industry and communities to expedite the move to a safe, efficient, and pollution-free transportation system. We look forward to renewing our partnership with the federal government."

“In addition to Cliff, Biden today selected UCLA School of Law professor Ann Carlson as NHTSA chief counsel.

“At UCLA, Carlson served as faculty co-director of the Emmett Institute on Climate Change and the Environment, where she published numerous articles on climate and the law.

“Former President Trump directed EPA and NHTSA to roll back the clean car standards established by former President Obama.

“Biden has made reinstating strong clean car standards a top priority as part of his broader climate agenda.

“Soon after being inaugurated yesterday, Biden signed an executive order on the environment that called for "establishing ambitious, job-creating fuel economy standards" in consultation with "labor unions, states and industry."

“In an interview with E&E News last month, Carlson said the Biden administration could show international leadership on climate change by targeting 100% electric vehicle sales and phasing out sales of new gasoline-powered cars.

"It would be symbolically really important on the climate front for the world's second-biggest emitter — and biggest emitter historically — to be phasing out the internal combustion engine," she said at the time.

“Carlson didn't respond to a request for comment in time for publication.

Congress

Other