
MAY 2021



Reversing Trump Environmental Rollbacks:

A 100 Day Analysis on the Biden Administration's Reversals



Authors

Clara Barnosky*

Jane Sadler**

Richard Yates*

Zachary Zimmerman**

We would like to thank Ted Lamm and Narayan Subramanian, who offered us much guidance on the rollbacks tracking project as well as this report, and Savannah Pearson for her help creating the rollbacks database. Additional thanks to Cait Cady for her assistance with development of the website.

* J.D. candidate, U.C. Berkeley Law

** M.P.P. candidate, Goldman School of Public Policy

Table of Contents

Introduction.....	2
Overview.....	5
Agency-Specific Analyses.....	14
Department of Energy.....	14
Department of Interior	18
Environmental Protection Agency.....	21
White House.....	28
Conclusion.....	30
Annexes.....	32
Annex 1: Categorization of Action Types By Ease of Reversal.....	32
Annex 2: Full List of Federal Agencies Tracked for Rollback.....	33
Annex 3: Breakdown of Data for Other Agencies.....	34
Annex 4: New Actions of the First 100 Days.....	36

Introduction

President Trump's time in office was characterized, among other things, by an aggressive focus on deregulation of industry and the rollback of protections for the environment. The rollbacks began on President Trump's first day in office, continuing at an almost constant pace until the day President Biden was sworn in. These rollbacks span over twenty agencies throughout the executive branch, including executive orders, rules, and agency guidance, as well as subtler policy instruments like omissions and failures to act. The rollbacks followed eight years of Obama Administration environmental policy conducted largely via executive and agency action, which facilitated incremental gains in the face of congressional inaction but opened the door for adverse action by the Trump administration. In order to understand the depth and impact of the Trump Administration's policies, we, with the guidance and support of U.C. Berkeley's Center for Law, Energy and the Environment (CLEE), began tracking the environmental rollbacks that occurred during President Trump's time in office. The result is a database of over two hundred rollbacks carried out by the Trump administration.

On November 4th, this research, like the rest of the country, faced an inflection point. Had President Trump been reelected, the work to track rollbacks would have continued for another four years. With President Biden's arrival, however, came promises to pursue a robust environmental and climate policy, overturning the Trump administration's record of undoing the Obama administration's legacy while setting a range of new goals. Therefore, our research shifted to focus on President Biden's reversals of President Trump's rollbacks, as well as new actions that the administration took.

To understand where the Biden administration's priorities lie—and to examine how the structures of administrative law and agency action determine substantive policy—we have summarized all of the reversals of his first 100 days in office and have provided analysis of what they could mean for his environmental policy at large.

Our analysis revealed that as of President Biden's 100th day in office, the new administration has initiated full or partial reversals of at least 57 percent of the 210 identified rollbacks. The administration has also undertaken 37 significant new actions. [1] Thus far, the administration's consideration and initiation of reversals on Trump-era rollbacks has displayed a commitment to reinstating environmental protections, largely reflecting President Biden's campaign promises around climate change and the environment. While there has been significant progress made there are still many rollbacks left, particularly "low-hanging fruit," that should be addressed in order to fully undo the work of the last administration. However, this is partially to be expected, given the constraints a new President faces during their first 100 days in office.

In this report, we provide a broad overview and explanation of our analysis, including the numbers and types of reversals and rollbacks. Because a significant majority of the rollbacks enacted by the Trump Administration originated with the Department of Energy (DOE), Department of the Interior

1. We defined substantive new actions as actions taken by the Biden administration to advance its agenda of environmental regulation, environmental and economic justice, and climate change.

(DOI), Environmental Protection Agency (EPA), and in the White House, President Biden's reversals mirror this breakdown, with the highest number of the administration's reversal actions occurring in the same agencies. Therefore, our analysis includes an in-depth look at these agencies and their reversals in order to draw conclusions about the significance of these actions for President Biden's administration at large.

Research Procedure

Beginning on September 15, 2020, we began cataloging and tracking every environmental rollback of the Trump Administration. Each rollback was given an impact assessment, a difficulty of reversal rating, and a review of associated litigation. After January 20, 2021, each rollback was then assigned a reversal status in order to track President Biden's efforts to undo the work of his predecessor. The research team updated this tracker daily for the first 100 days of Biden's time in office.

To determine the existence of a rollback and any status changes, we employed a systematic approach covering the Federal Register, relevant agency websites and press releases, [2] and relevant agency guidance portals. These sources were then supplemented with daily scans on secondary sources, such as reputable non-governmental organizations' press releases and mainstream news sources. We also consulted with other trackers that had already begun similar work, namely the Harvard EELP Regulatory Rollbacks Tracker, [3] NYU's Midnight Watch Project, [4] and the Columbia Sabin Center Climate Deregulation Tracker, [5] each of which had been covering a different portion of the administration's rollback record. After consultation with supervisors from CLEE, any pertinent information was uploaded on our Environmental Rollbacks Assessment Table [6] and on the CLEE Rollback Website. [7]

To ensure a well-rounded analysis, we created several categories to quantify the rollbacks:

1. Impact Assessment

A rollback was defined as a policy that would have negative Environmental, Human Health, Programmatic, or Climate Change-related impacts—or a combination of the four. In the spreadsheet, each rollback was given one point for each category in which it would have an effect. These points were added for a score between one and four. In this way, we were able to identify the most broad-reaching rollbacks by identifying those that would have impacts across multiple categories. [8] Thus, while the assessments do not necessarily capture the magnitude of the impact and may reflect some biases or simplification, they were a useful tool for understanding which rollbacks would have the most extensive policy impacts and were the highest priority for reversal.

2. These include press releases and litigation updates from organizations such as Environmental Defense Fund, Natural Resources Defense Council, Center for Biological Diversity, and Earthjustice.

3. *Regulatory Rollback Tracker*, Harvard Environmental & Energy Law Program, <https://eelp.law.harvard.edu/portfolios/environmental-governance/regulatory-rollback-tracker/>.

4. *Midnight Watch Project*, N.Y.U. St. Energy & Envtl. Impact Ctr., <https://www.law.nyu.edu/centers/state-impact/midnight-watch>.

5. *Climate Deregulation Tracker*, Colum. Sabin Ctr. for Climate Change L., <https://climate.law.columbia.edu/climate-deregulation-tracker>.

6. *Environmental Rollbacks Assessment*, <https://docs.google.com/spreadsheets/d/1o5V1ZyUm9YmeS5SoRudXAR8I-yDYi1Juk3XftGJPml/edit#gid=1164262591> (last updated Apr. 30, 2021) (spreadsheet showing full tracking data).

7. *Reversing Environmental Rollbacks*, U.C. Berkeley Ctr. for L. Energy & Envt. (CLEE), <https://www.law.berkeley.edu/research/clee/reversing-environmental-rollbacks/> (last updated Apr. 30, 2021).

8. These decisions were made by consensus within our team and not in consultation with any official agencies or sources.

2. Difficulty Rating

When a rollback was entered into the tracker, in addition to an impact rating, it was also coded based on the difficulty of reversal. [9] ‘Easy’ reversals include executive orders that could be rescinded, informal agency policy or guidance, or other actions that could be undone through a relatively quick process. ‘Medium’ difficulty reversals include actions like regulatory rescissions or withdrawals that do not require a new rulemaking process, new Environmental Impact Statement (EIS) processes, and other similar mid-length processes. ‘Difficult’ reversals are those that require an extended rescission and rulemaking process or other long-term, multi-stakeholder processes. In addition to a rating, we supplied an explanation of the most appropriate reversal route for each rollback. [10] Given the diversity of policy instruments used in rollback actions, rating the difficulty of reversal required some art as well as science. Despite this, difficulty ratings are useful when analyzing the Biden administration's actions, given the realistic timeline of reversals—executive orders can be reversed at the discretion of the president while new rulemaking processes can take a year or longer to complete.

New Actions

In addition to tracking reversals, we wanted to capture the proactive policy positions of the Biden Administration. We tracked President Biden’s ‘New Actions’ in order to get further insight into what environmental and climate priorities the new administration would be pursuing. [11] In order to be added to the New Actions site, a policy had to represent a new initiative or material advancement in agency/executive policy, impact one or more of the four categories (Environmental, Human Health, Programmatic, or Climate Change), and not exclusively consist of a reversal or response to a Trump-era policy. Through this, we hope to clarify which actions are a result of the new administration's policy priorities, regardless of the rollbacks during the Trump Era.



9. The following presents a high-level overview. For an exhaustive list of our categories see Annex 1.

10. Many proposed reversal strategies were adapted from a Sabin Center report. See Michael Burger, Daniel J. Metzger, et al., *Climate Reregulation in a Biden Administration*, Columbia Sabin Center for Climate Change Law (Aug. 2020), <https://climate.law.columbia.edu/content/climate-reregulation-biden-administration>.

11. *First 100 Days*, CLEE, <https://www.law.berkeley.edu/research/clee/first-100-days/> (last updated Apr. 30, 2021). The New Actions are also listed in Annex 4.

Overview

From before his first day in office, Biden emphasized a need for ambitious policies on the environment and climate change. Calling climate change “the existential threat of our time,” Biden ran on an ambitious climate change plan with a heightened focus on environmental justice. [12] Now in office, his rhetoric has continued and early actions have followed at a relatively rapid pace. Most notably, and in a departure from his predecessors, President Biden has approached environmental policy through a holistic and measured lens that includes a whole-of-government approach reaching from EPA to the Department of Defense, systematically reviewing agency mandates and responsibilities to address climate and environmental threats rather than attempting to address climate change solely through carbon pricing or emissions regulations. President Biden has integrated environmental protections and regulations into everything from his infrastructure plan to his economic plan, and has created key positions such as Presidential Climate Envoy and White House National Climate Advisor who have uniquely climate-focused backgrounds. Agencies have done the same with new climate change focused positions at the National Aeronautics and Space Administration, Federal Energy Regulatory Council, Securities and Exchange Commission, and Federal Reserve Bank. President Biden’s executive actions have similarly reflected this viewpoint, with climate considerations embedded in everything from immigration actions such as the *Executive Order on Rebuilding and Enhancing Programs to Resettle Refugees and Planning for the Impact of Climate Change on Migration*, to the promotion of climate-related disclosure obligations in the *Roadmap for a Renewed U.S. - Canada Partnership*.

While his new sweeping actions and continued rhetoric clearly show a shift away from President Trump’s era of dismantling protections, there are still understandable questions about President Biden’s actual commitment – and in some cases, agencies’ capacity – to tangibly undo the rollbacks undertaken by President Trump. Our tracking efforts of announcements, executive orders, and agency actions tentatively shows that the administration’s first 100 days reflects an actual commitment to sustained climate and environmental progress.

Our Results Show the Biden Administration Has Begun to Address 57 Percent of Trump’s Rollbacks

We found that in the four years with President Trump at the helm, the federal government executed at least 210 environmental rollbacks. (The total number of attempted rollbacks is higher; we excluded from our analysis some, but not all, actions that expired or were overturned in court.) These rollbacks were predominantly conducted by the Environmental Protection Agency (EPA), the Department of Energy (DOE), the Department of the Interior (DOI), and the White House, but there also erosions of environmental protections from unexpected sources such as the Treasury, Department of Defense, and the and the Securities Exchange Council. [13] In short, the Trump Administration made coordinated and aggressive movements towards degrading the nation’s environmental regulations and protections.

12. See, e.g., Oliver Milman, *Biden Signals Radical Shift from Trump Era with Executive Orders on Climate Change*, the Guardian (Jan. 27, 2021), <https://www.theguardian.com/us-news/2021/jan/27/joe-biden-climate-change-executive-orders>.

13. For a full list of agencies, please see Annex 2.

Figure 1. Reversal Actions by Agency. While the EPA has the largest share of environmental rollbacks, Trump-era rollbacks spanned numerous federal agencies.

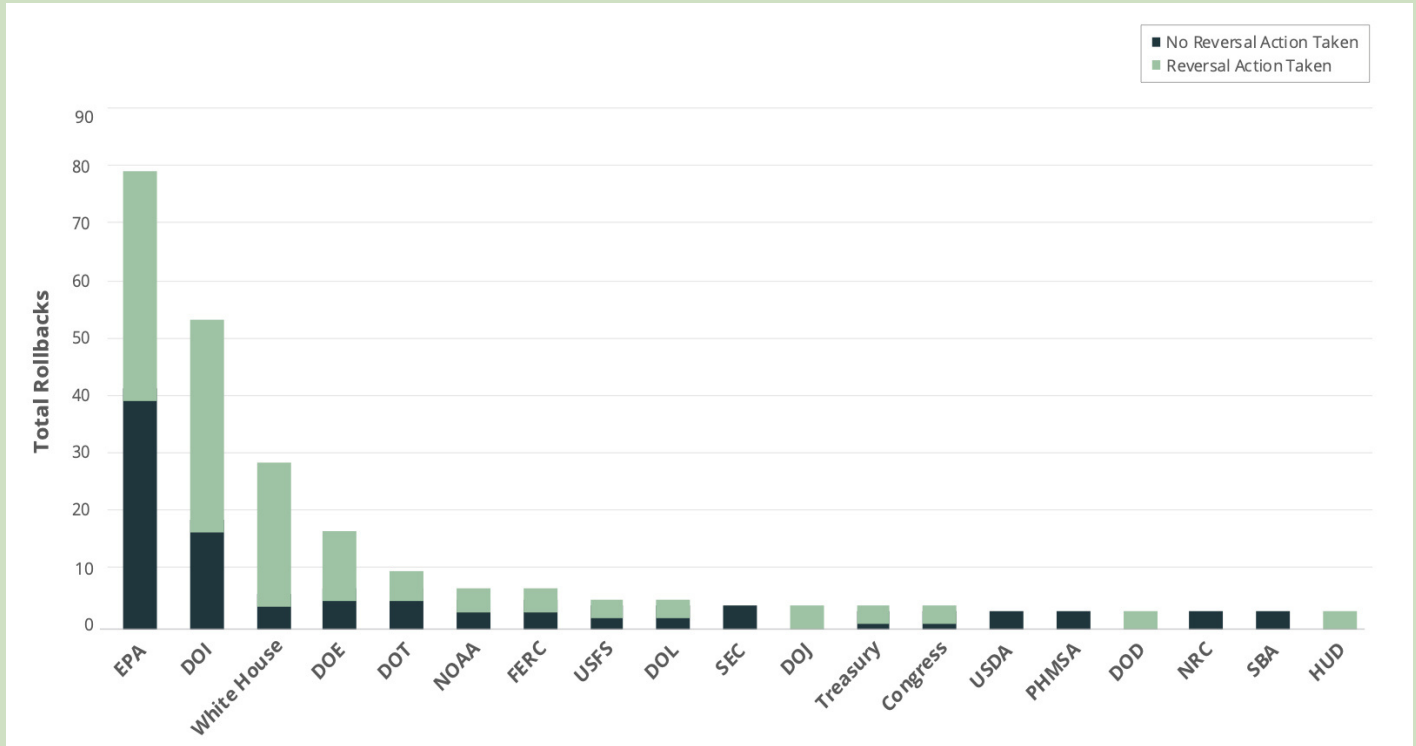
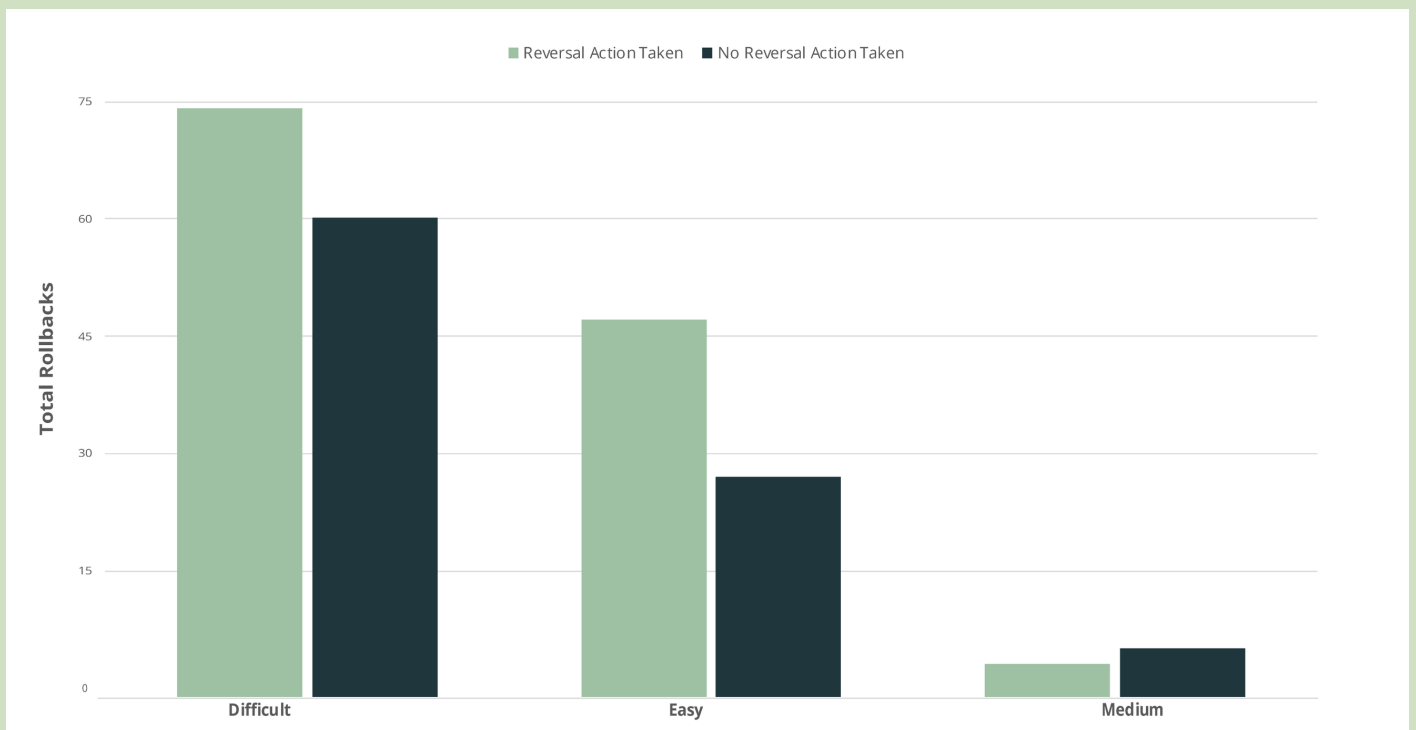


Figure 2. Reversal Actions by Difficulty Level. Reversal difficulty level, alone, is not necessarily a predictor of the Biden administration's progress. It is pursuing easy and difficult reversals alike.



Within President Biden's first 100 days, the administration initiated action to address 120 of the 210 rollbacks (or 57 percent) included in this analysis. [14] Of the 210 rollbacks, 23 percent are under formal agency review, 22 percent have been fully reversed, 8 percent have been delayed or paused, 3 percent have a reversal in progress or rule modification, and 2 percent have had a major new regulation proposed by the Biden administration.

"No Reversal Progress" May Have Other Causes Besides Inaction

In contrast, 42 percent of the rollbacks we tracked have had no reversal progress yet. There may be a variety of reasons for this lack of action.

1. Many of the Trump Rollbacks are Difficult to Reverse Because they Were Implemented through Notice-and-Comment Rulemaking

First, as explained above, the process required to undo some of these actions is time-consuming. The Trump administration carried out much of its environmental deregulatory agenda through traditional notice-and-comment rulemaking. Reversals of rules are challenging because executive agencies must either withdraw proposed or not-yet-effective rules under the procedural requirements of notice-and-comment rulemaking in the Administrative Procedure Act (APA), [15] or, as is often necessary, replace a final rule with a new, more protective rule. In either case, the agency must conduct lengthy background scientific and policy analysis, solicit and respond to comments from the public after publishing the proposed and final rules in the Federal Register, and in most cases defend the final rule in court. [16]

Rulemaking often takes a long time due to the need for the rule to be supported by a reasoned analysis as to why the agency thinks the rule is necessary. [17] Rulemaking in the environmental and human health areas often involves complex and far-reaching scientific and economic inquiries. The legal analysis, scientific research, and public participation supporting rulemaking determinations may take years or even decades to compile. Thus, an agency must dedicate substantial resources and time towards pursuing a line of inquiry and risks the possibility of yielding inconclusive findings on a complex or novel research topic. Reviewing courts determined that the Trump administration, for example, did not adequately promulgate regulations in a significant number of cases. [18] These procedural hurdles are meant to ensure thorough and competent agency actions. This is especially important in the context of regulation by EPA, since these rules are of great importance to the well-being of humans and the environment.

In addition, the Biden administration will likely advance its environmental justice focus by including historically underrepresented populations in the rulemaking process through furthering public

14. Please note seven rollbacks of the rollbacks we tracked were excluded from this analysis because they were overturned, expired, or terminated during Trump's term.

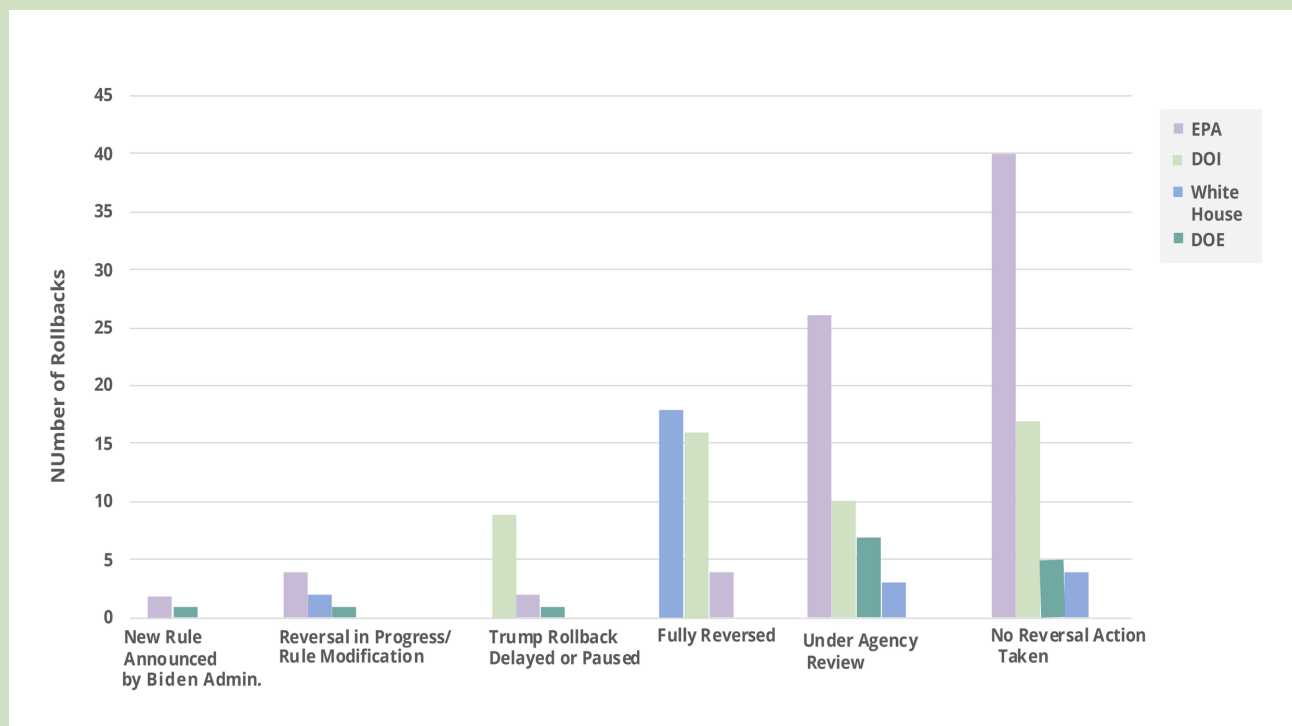
15. Administrative Procedure Act (APA) § 553.

16. *Id.*

17. Even though APA § 553 requires only a "concise general statement" of the "basis and purpose" of the rule, the standard in practice is often interpreted to require a great deal of agency data and explanation. *See, e.g.,* U.S. v. Nova Scotia Food Products Corp., 568 F.2d 240 (2d Cir. 1977) (finding that FDA must disclose underlying data it used in formulating rule to allow commenters to weigh in); *Indep. U.S. Tanker Owners Comm. v. Dole*, 809 F.2d 847 (D.C. Cir. 1987) (statement of basis and purpose must raise major issues of policy implicated by the rule and explain the relationship between the rule and the statute's objectives).

18. *See, e.g., Roundup: Trump-era Agency Policy in the Courts*, N.Y.U. Inst. for Policy Integrity, <https://policyintegrity.org/trump-court-roundup> (last visited May 1, 2021) (counting 200 losses for the Trump administration out of 259 total legal challenges of its actions, a 23 percent success rate for the administration's policies).

Figure 3. Reversal Method by Core Environmental Agencies. The Biden DOE, DOI, EPA, and White House have taken several paths towards reversal, including delaying rollbacks and modifying rules. Even so, many rollbacks remain in place.



participation in these groups. Rulemaking notices have already underscored the importance of elevated participation to the new administration. [19] While additional public participation is beneficial, it will likely mean that reversing the Trump rules may take longer than it took the Trump administration to promulgate them.

Along with being technically and scientifically complex, rules also are subject to strict legal requirements and oversight. In reversing the rollbacks, agencies must craft rules that meet the legal requirements to ensure the rules survive litigation. The rules that an agency promulgates interpret the organic statutes the agency is charged with implementing. This interpretive power is statutorily delegated by Congress to the agency. The scope of the agency's power to interpret is limited by both procedural and substantive constraints. In addition to following the requirements set out in the organic statute, the agency must follow the procedural requirements of the APA at the risk of its rule being deemed arbitrary and capricious by reviewing courts. [20] The agency must also follow the requirements of executive orders dealing with inter-agency and White House review of new rules. [21] And, even after finalization, a rule often must survive litigation challenging the agency's analysis and interpretation of its authority, including under judicially-created doctrine such as Chevron analysis of reasonable agency interpretations of ambiguous statutory provisions. [22]

19. See, e.g., National Primary Drinking Water Regulations: Lead and Copper Rule Revisions; Delay of Effective and Compliance Dates, 86 Fed. Reg. 14,063 (Mar. 12, 2021) (seeking extension in order to "consult with stakeholders, including those who have been historically underserved by, or subject to discrimination in, Federal policies and programs."). For more information on this rollback, see Case Study 3.

20. See APA § 706.

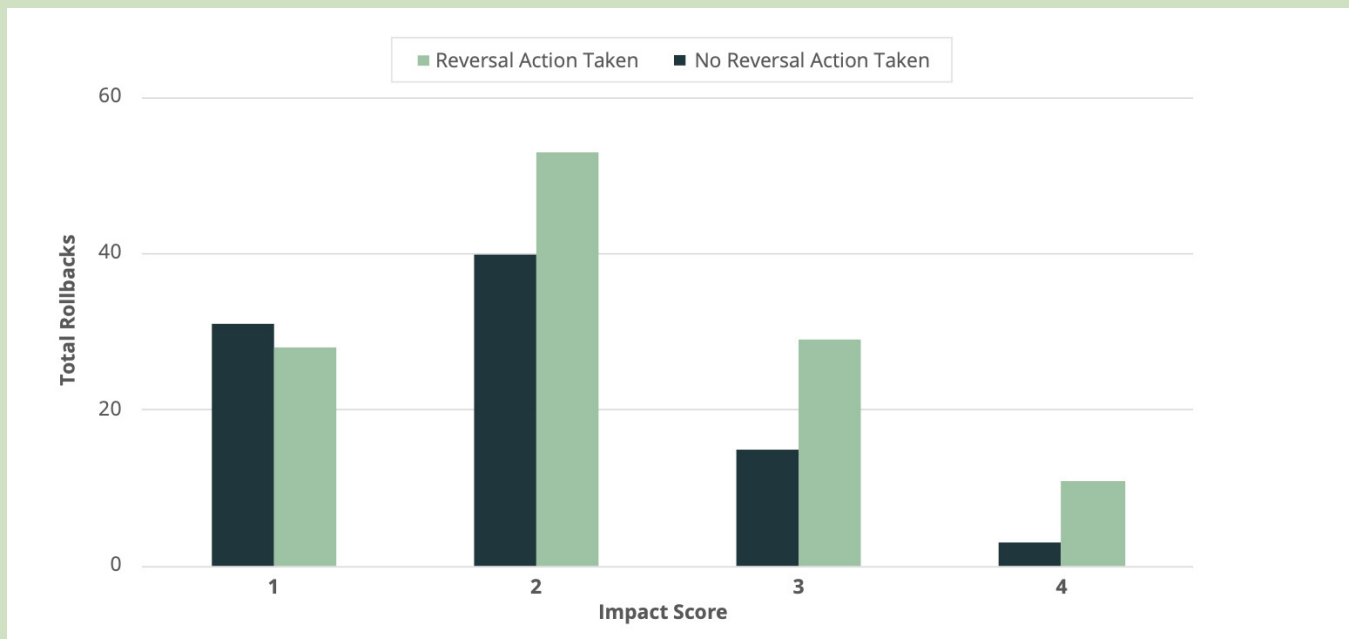
21. See, e.g., E.O. 12866, 58 Fed. Reg. 51735 (Oct. 4, 1993).

22. Chevron U.S.A., Inc. v. Nat. Res. Def. Council, 467 U.S. 837 (1984).

The Biden administration faces much uncertainty with regard to the future application of Chevron judicial deference. With the installation of three new Supreme Court justices under President Trump who have expressed skepticism or ambivalence towards the Chevron doctrine, Chevron's future power is unclear. [23] Even under the current formulation, the doctrine grants much leeway for conservative justices wishing to undermine federal regulation. In light of the less-conservative prior Court's curtailment of the Obama administration's environmental initiatives, such as by placing an unprecedented stay on the Clean Power Plan in 2016, the Biden administration is likely thinking strategically about which rules have the greatest chance of survival under a more conservative Supreme Court.

As a result, agencies will likely err on the side of caution in strategically assessing the reversal of Trump-era rules. Rather than hastily jamming through rules that lack the appropriate procedures and are wanting in terms of reasoning, an agency will likely take its time to develop a compelling record of evidence supporting its interpretations and follow procedures that extend beyond the APA requirements.

Figure 4. Reversal Action Taken by Impact. During our tracking, we assessed an impact score to each rollback, taking into account the environmental, health, programmatic, and climate change effects of the action. Items with higher scores indicate those that have the greatest impact in our estimation. (See the Rollbacks Tracker website for the individual assessments.) The administration has taken greater action towards reversing higher impact rollbacks, when comparing to the total by impact score.



23. See, e.g., *Gutierrez-Brizuela v. Lynch*, 834 F.3d 1142, 1149 (10th Cir. 2016) (Gorsuch, J. concurring).

Figure 5. Reversal Actions Taken by Non-Core Environmental Agencies. In addition to core environmental departments, agencies such as the Department of Justice (DOJ) and Housing and Urban Development (HUD) were also responsible for environmental rollbacks. These two agencies have now fully reversed the Trump-era rollbacks we identified. Other agencies, such as the Small Business Administration (SBA), Nuclear Regulatory Commission (NRC), and Pipeline and Hazardous Materials Safety Administration (PHMSA), have not made any progress yet.

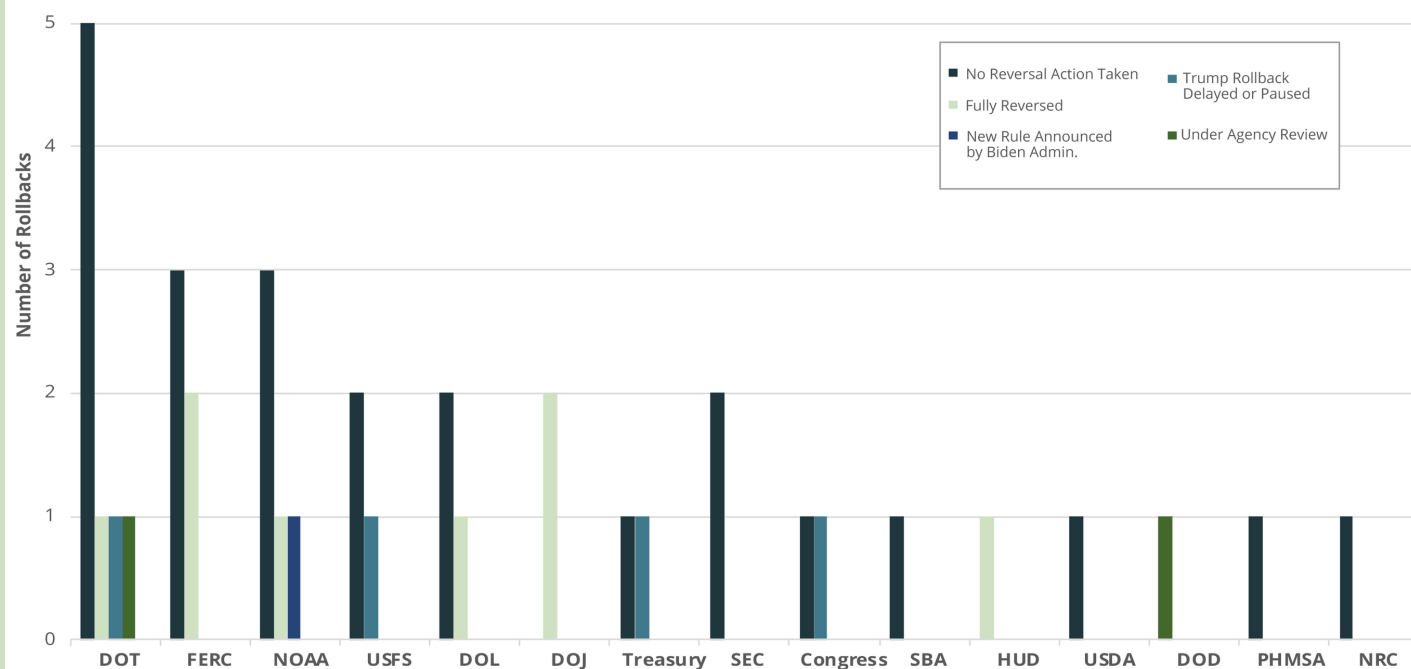
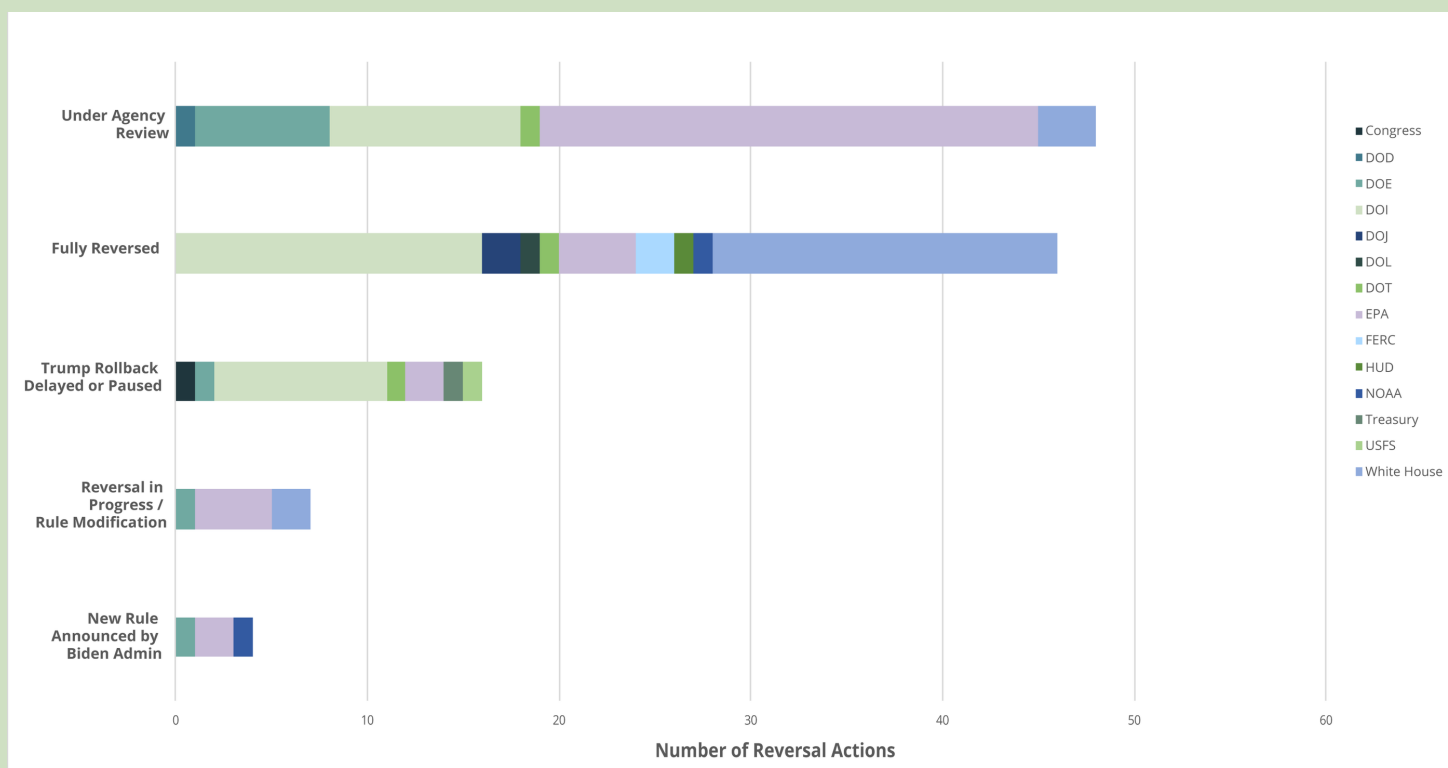


Figure 6. Reversal Methods by Agencies. The White House is responsible for the bulk of the fully reversed rollbacks, while the EPA has the most actions currently under review as well as in progress.



After all, several of the Trump-era rules were either held up or struck down by courts finding procedural and substantive deficiencies. Rules resulting from greater agency effort, incorporating more complete scientific evidence as well as the views of diverse stakeholders, will be substantively more effective and legally more secure. Agencies will also be more insulated from judicial challenges by building a strong evidentiary record and by exceeding the required procedures. Thus, if only because the rules will have more of a chance of withstanding judicial scrutiny and actually becoming law, agencies will be incentivized to take their time and craft the best rules they can.

One shortcoming of a purely quantitative-based reversal analysis is its failure to fully account for the resilience of the administration's new actions. Ensuring that the new rules survive and produce their intended impact is more important than just quickly reversing bad rules. To ensure long-lasting and robust reversals, however, the Biden administration must invest significant agency resources, including time. Unfortunately, crises such as climate change demand that the administration take swift action. Finding this balance between swift reversal and crafting strong new regulations is an ongoing challenge.

2. The First 100 Days of a New Administration is a Difficult Time to Act

Not only is the first 100 day period an extremely short time to evaluate the success or failure of an administration, the first 100 days can be a particularly difficult time to reach a complete understanding of an administration's actions and priorities. During the initial months of a new administration, agency leadership is nominated and confirmed, the new executive is still formulating and prioritizing a policy agenda, and perhaps most important this year, protecting the country from a global pandemic. While the President has seen the confirmation of most of his chosen administrators, several positions still need to be filled. The staffing shortage, while a routine part of the first months of any new administration, necessarily makes taking agency action all the more difficult.

Another challenge is the high turnover in civil service staff as a result of the Trump administration's position on the environment and science more generally. As an example, it has taken the EPA decades to build a team of staff scientists, economists, and other experts in environmental and human health issues. A 2020 Washington Post analysis found that over 700 EPA scientists left the agency during the first three years of the Trump administration. [24] Scientists leaving their posts across the government vocally critiqued the administration for its suppression of science and denial of climate change. [25] While the effects of this huge turnover in specialized institutional knowledge will be felt for decades, it has also certainly been a major stumbling block to implementing a new policy agenda under President Biden.

An added difficulty is the need to restore morale. Setting a new tone and improving morale is difficult for a workforce that was neglected and muzzled by the prior administration. Communicating and implementing major shifts, such as allowing staff scientists to speak openly about their research and preserving references to climate change on government reports and

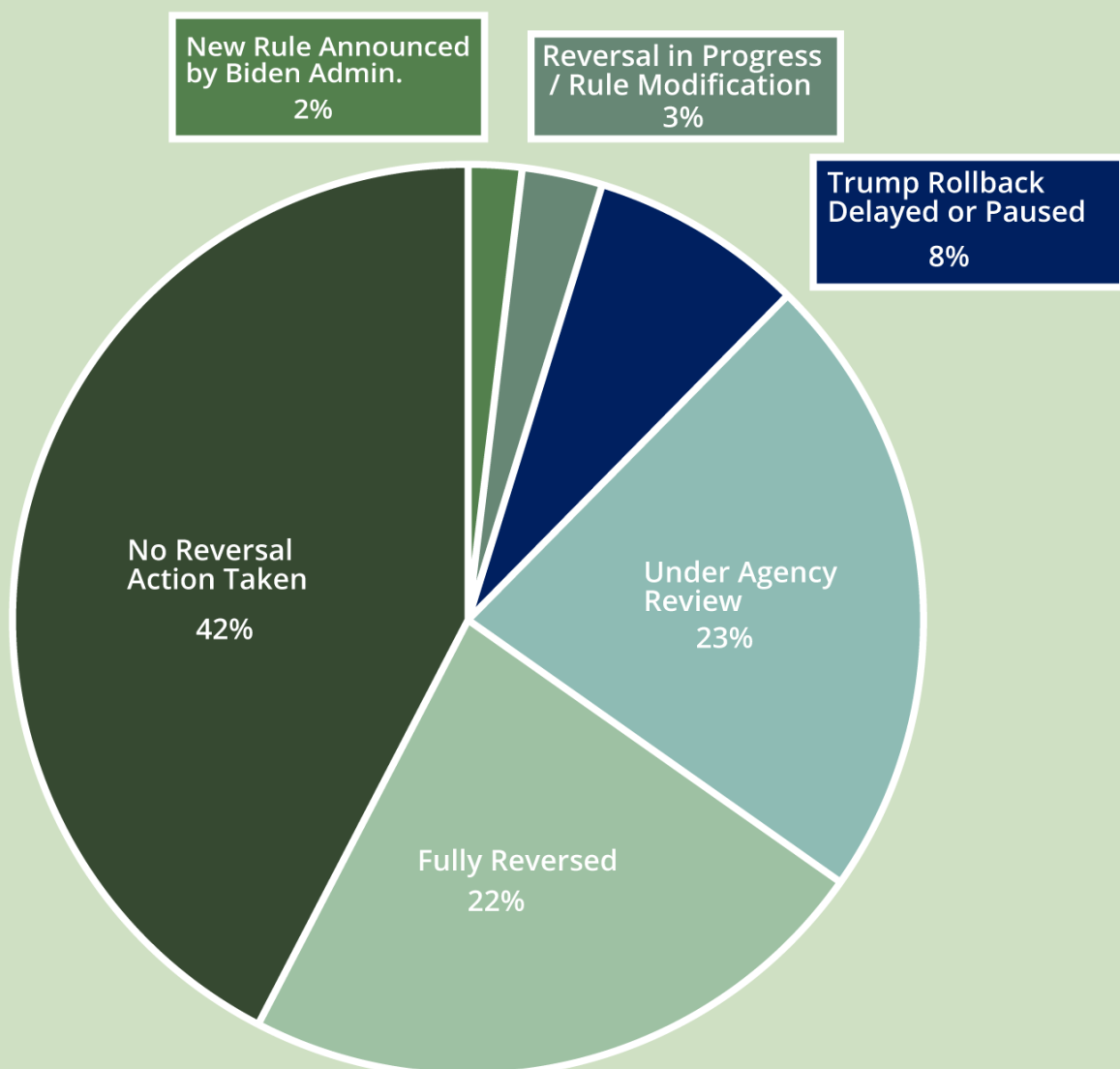
24. Annie Gowen, *Science Ranks Grow Thin in Trump Administration*, Washington Post (Jan. 23, 2020), https://www.washingtonpost.com/climate-environment/science-ranks-grow-thin-in-trump-administration/2020/01/23/5d22b522-3172-11ea-a053-dc6d944ba776_story.html.

25. See, e.g., Marianne Lavelle, *The Resistance: In the President's Relentless War on Climate Science, They Fought Back*, Inside Climate News (Dec. 27, 2020), <https://insideclimatenews.org/news/27122020/trump-climate-science-epa-wheeler-biden/>.

websites, will take time. This important aspect is not quantified in our report, but remains an integral consideration for successfully moving forward with new agency policies, as employee morale is key to allowing the necessary agency work to move forward and the administration's environmental and health initiatives to be accomplished.

Making major changes within the first 100 days of any new administration is a challenge. In addition to the staffing vacancies and morale, the administration is still in the process of clarifying its policy goals. President Biden has been relatively clear about his intent to move especially swiftly on the issues of climate change and environmental justice. He emphasized these goals in the executive orders he issued immediately upon becoming president. Even so, agencies must decide how to triage other essential activities around the executive's major policy goals. This triage may explain why responding to a flurry of initial executive orders may temporarily divert executive agencies' attention away from other important initiatives, hopefully returning to them later.

Figure 7. Reversal Actions Summary of All Agencies. While Biden's administration has made substantial progress, 42% of the rollbacks are still left unaddressed.



3. Agencies May have Active, Rather than Reactive, Priorities.

Agencies may wish to give priority to new actions, rather than reversing old ones. Because of the existing constraints on federal agencies, it is possible some agencies would rather enact high-impact change, which may not directly correspond to actions taken under Trump, than spend their resources on lower impact reversals. Other priorities, such as fostering trust through stability and decreasing the ever-increasing “seesaw effect” may also be at play.

In sum, while 42 percent of the rollbacks are still left untouched with “no reversal action taken,” these are not necessarily failures of agencies to take necessary steps; rather, they may just be planned future actions yet to be released publicly due to time and resource constraints, as well as priority choices.

Our Analysis Shows President Biden Did Not Necessarily Prioritize “Easy” Actions, But He Did Prioritize High Impact Ones

Perhaps in contradiction with the first point about difficulty, we only observed a weak emphasis on reversing “easy” actions. President’s Biden administration instituted reversals on 62 percent of those rollbacks we classified as easy in comparison to the 55 percent of those we classified as difficult. Only 33 percent of those we classified as medium had any reversal progress initiation, though given we only classified six actions in the medium category, we are unable to draw any conclusions from this significantly lower number.

We also looked at the impact these actions had. In sum, we saw a trend between our impact scoring system and rollbacks targeted for reversal. Only about 47 percent of those rollbacks scoring a “1” on our impact score had associated reversals initiated. In contrast, about 78 percent of those assigned an impact score of “4” had reversal actions taken. Based on this data, it appears that the Biden Administration has prioritized for reversal those rollbacks that had the broadest impact across the environment and agency processes.

As stated above, actions from EPA, DOI, DOE, and the White House constituted 80 percent of all of the rollbacks. Because of their overall impact, and because of the agencies’ respective purposes to protect the environment in some capacity, we have investigated the broad trends within each of these agencies. The following four sections discuss the rollbacks and subsequent reversals by each agency in detail.



Agency Specific Analyses

Department of Energy

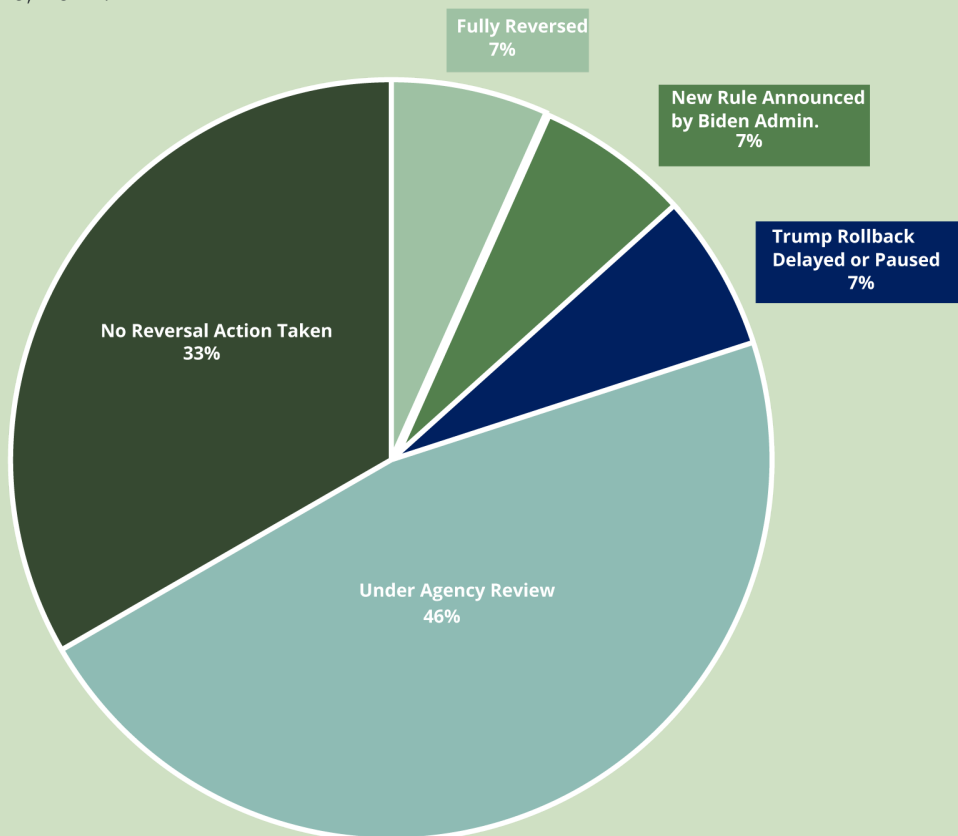
Biden DOE Has Addressed Two-Thirds of Trump-Era Rollbacks But Natural Gas Rollbacks Remain

Under the Trump administration, the U.S. Department of Energy (DOE) was responsible for a relatively small number, approximately 7 percent, of the total rollbacks we tracked. However, DOE still represented the fourth-most rollbacks overall by agency. The Trump DOE rollbacks primarily focused on one program, with just under two-thirds of those rollbacks related to the Energy Conservation Program, which sets energy efficiency standards for consumer products, appliances, and

industrial equipment. [26] Three of the remaining rollbacks are related to streamlining the exportation of natural gas and two were procedural rollbacks.

In its first 100 days, the Biden administration has been very active with DOE reversals. Since January, it has targeted ten of the fifteen rollbacks for reversal. And, all but one Energy Conservation Program rollback (*Energy Conservation Standards for Manufactured Housing*) [27] is under agency review or had its effective date delayed. DOE was also the source of one of the Biden administration's three new proposed rulemakings used to reverse a rollback, *Energy Conservation Program for Appliance Standards: Process and Economic Justification Rules*. [28]

Figure 8. DOE Reversal Progress. A breakdown of Biden DOE reversals of Trump-era rollbacks by type since January 20, 2021.



Finally, the Biden DOE recently removed one procedural reversal, *Procedures for Issuance of Guidance Documents*. [29] This rule required all agency guidance to go through the formal APA rulemaking process, a significant departure from historical practice and potential cause of substantial delay. With the rule reversed, DOE is free to issue new guidance documents according to traditional, non-notice-and-comment procedures. [30]

Understanding the Scope of DOE Rollbacks Requires Consideration of Agency Inaction

When comparing the Trump and Biden DOE agendas, it is important to note that much of the Trump administration's impact came through inaction on the part of agencies. The Trump-era DOE was no different. When we refer to inaction, we mean the omission of an action that would have had positive environmental or climate change impacts, or *rollback by omission*. We did not attempt to quantify agency inaction in most cases, but the DOE provides an excellent example of how the Trump administration used both agency action and inaction to further its agenda, in large part because the agency's mandate includes regular improvements in the wide-ranging Energy Conservation Program. In one instance, the Trump DOE was sued for failing to adequately update standards under the program by six environmental and consumer groups estimating that DOE inaction on energy efficiency standards will likely cost consumers \$22 billion per year and emit approximately 75 million tons of carbon dioxide annually by 2035. [31] These numbers only account for 15 of the 28 product categories for which the Trump administration failed to meet the legal deadline for updating the energy efficiency standards. [32]

The Biden DOE is working to undo Trump-mandated restrictions to agency guidance, part of the Trump administration's larger deregulatory push to hamstring agencies dealing with important issues such as climate change.

The Biden DOE has already introduced one early assessment review, *Energy Conservation Program: Energy Conservation Standards for Consumer Products; Early Assessment Review; Boilers*, [33] to determine whether new energy efficiency standards should be set. We expect similar rulemaking processes to happen for other energy efficiency standards the Trump DOE did not update.

26. See CLEE, Proposed Action Memo: *DOE Energy Conservation Program Rollbacks* for more details on the fiscal and carbon emission impacts of the Trump energy conservation program rollbacks: <https://www.law.berkeley.edu/wp-content/uploads/2021/01/CLEE-Action-Memo-Energy-Conservation-Program.pdf>.

27. 81 Fed. Reg. 39755 (June 17, 2016); DOE #11.

28. 85 Fed. Reg. 50937 (Aug. 19, 2020); DOE #10.

29. 86 Fed. Reg. 451 (Jan. 6, 2021); DOE #15.

30. See Case Study 1 for more detailed analysis.

31. See Complaint at 11, Nat. Res. Def. Council v. Brouillette, No. 1:20-cv-09127 (S.D.N.Y. Oct. 30, 2020), <https://www.nrdc.org/sites/default/files/complaint-doe-standards-delay-20201030.pdf>.

32. Appliance Standards Awareness Project, *Missed Deadlines for Appliance Standards* (upd. Mar., 2021), https://appliance-standards.org/sites/default/files/Missed_deadlines_as_of_March_2021.pdf.

33. 86 Fed. Reg. 15804 (Mar. 25, 2021).

Additionally, the Trump DOE did very little to promote renewable or other forms of clean energy. Since taking office, the Biden administration has already committed to halving the cost of solar by 2030 by investing over \$100 million to improve the efficiency of solar technologies and manufacturing. [34] In addition, the administration will invest \$8.25 billion in new transmission infrastructure investments, [35] as well as leverage over \$40 billion in the Loans Program Office for low-carbon technologies. [36] The Trump administration granted only one loan from this office in four years, to the Vogtle Nuclear plant in Georgia. [37]

Under the Trump administration, DOE focused a majority of its efforts on undermining the Energy Conservation Program, as well as making it easier to export natural gas. Potentially the biggest impact made by the Trump DOE was what it did not do, particularly for energy efficiency standards. Since January 20, 2021, Biden's DOE has begun to address many of the rollbacks and has demonstrated its commitment to addressing the rollbacks by omission. DOE's actions have included much-needed reversals, new rules to address inaction, as well as significant investments focused on promoting renewable energy, innovative technology, and infrastructure.



34. DOE, Press Release, *DOE Announces Goal to Cut Solar Costs by More than Half by 2030* (Mar. 25, 2021), <https://www.energy.gov/articles/doe-announces-goal-cut-solar-costs-more-half-2030>.

35. White House, Press Release, *Fact Sheet: Biden Administration Advances Expansion & Modernization of the Electric Grid* (Apr. 27, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/27/fact-sheet-biden-administration-advances-expansion-modernization-of-the-electric-grid/>.

36. Jeff St. John, *Jigar Shah's Plan to Manage DOE's \$40B Loan Program*, Greentech Media (Mar. 8, 2021), <https://www.greentechmedia.com/articles/read/how-jigar-shah-plans-to-manage-does-40b-loan-programs-office>.

37. David Iaconangelo, *DOE Program May Save — Or Thwart — Biden's Energy Plan*, E&E News (Jan. 26, 2021), <https://www.eenews.net/stories/1063723511>.

Case Study 1

Procedures for Issuance of Guidance Documents

Agency: Department of Energy (DOE)

Rollback: Rule (1/6/21)

Reversal: Withdrawal in progress

Rollback: The Trump DOE issued a final rule establishing procedures for issuing DOE guidance documents following *Executive Order 13891, Promoting the Rule of Law Through Improved Agency Guidance Documents*. [38] The new rule requires that all "significant" guidance documents go through formal notice-and-comment rulemaking. This would slow down the issuance of agency guidance, which is a useful tool for agencies as they carry out an administration's policy agenda. Issuing guidance allows the agency to establish its priorities and respond nimbly to changing circumstances. It also provides the regulated community with notice of standards for enforcement and agency interpretation of discretionary rules. The rule gives the threshold determination of what constitutes "significant" guidance to the Office of Information and Regulatory Affairs, potentially slowing down agency responsiveness and decentralizing DOE's authority. The DOE rule and the Trump executive order are consistent with the Trump administration's larger agenda, seeking to inhibit the ability of agencies to administer the statutes Congress charged them with implementing.

Reversal: Since the rule had not yet become effective, DOE delayed its effective date to March 21, 2021. It delayed the rule again through notice-and-comment rulemaking, making it effective June 17, 2021. DOE issued a proposed rule on March 26, 2021, seeking comment on withdrawing the Trump-era rule. In the proposed rule, DOE pointed out how the guidance document restrictions would hinder its ability to respond in a timely way to economic recovery and climate change issues.

Analysis: The Biden DOE reversal efforts highlight the administration's focus on ensuring agencies have the ability to carry out their duties through the traditional tools of agency action, including agency guidance. DOE emphasizes that an issue like climate change requires that it have the ability to make determinations regarding the applicability of the federal statutes it implements, without onerous procedural requirements meant to delay, and probably more likely quash agency action. Other agencies, including DOI and DOT, have also recently replaced similar Trump-era rules restricting agency guidance. [39]

38. 86 Fed. Reg. 16114 (Mar. 26, 2021).

39. See 86 Fed. Reg. 19786 (Apr. 15, 2021); 86 Fed. Reg. 17292 (Apr. 2, 2021).

Department of Interior (DOI)

DOI Under Trump Actively Abandoned Its Conservation Duties

The Department of the Interior (DOI) is singular, even among other federal agencies, for its vast array of responsibilities. It manages public resources, minerals, national parks, and wildlife refuges, and upholds Federal trust responsibilities to tribal governments and populations. It also responsible for endangered species and conservation efforts. In total, the department oversees and manages over five hundred million acres of federal land and more than one and a half billion acres offshore. To accomplish its tasks, it houses eleven technical bureaus, including the Bureau of Land Management (BLM) and U.S. Fish and Wildlife Service. Actions conducted by these bureaus are included in our analysis under their parent agency, DOI. In total, DOI and its progeny bureaus accounted for about 25 percent of all of the rollbacks we tracked.

Under Trump's management, DOI focused on promoting the exploitation of the resources under its control, veering away from the agency's conservation duties. Under Trump's guidance, DOI undertook controversial and highly publicized actions such as reversing an Obama-era ban on imported big-game trophies, significantly limiting EIS

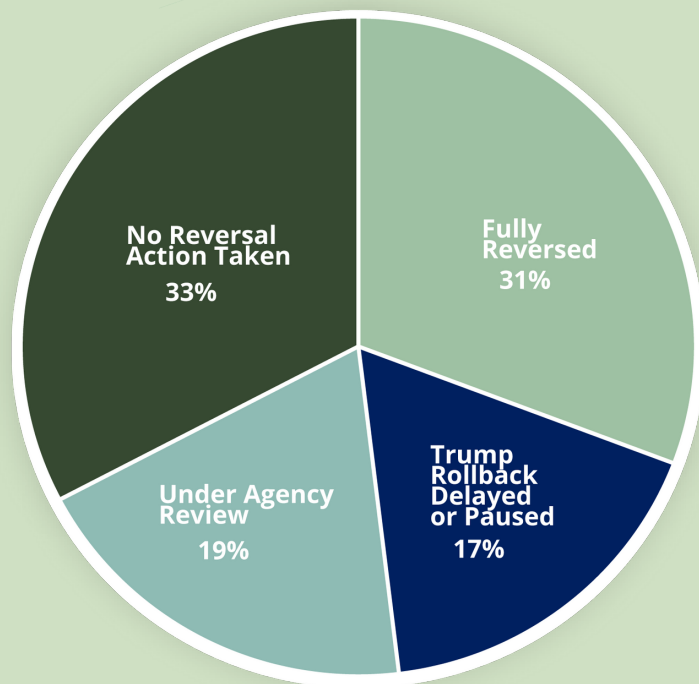


Figure 9. DOI Reversal Progress. Biden's DOI has begun to address the majority of the rollbacks, fully reversing nearly a third of the actions.

requirements, and opening nine million acres of Western land previously set aside for the endangered greater sage-grouse to oil and gas drilling. [40] Undertaking an all-encompassing approach, Trump's DOI also rolled back comparatively inconspicuous rules, ranging from reversing DOI's decades-old position on the use of sand from a protected area for beach replenishment outside of the area to allowing the previously banned sale of plastic water bottles in National Parks. [41] As with many other Federal agencies during Trump's tenure, DOI targeted a vast array of regulatory levels, seemingly undoing much of the conservation effort made in the last twenty years.

40. Principal Deputy Director, U.S. Fish and Wildlife Service, *Withdrawal of Certain Findings for ESA-listed Species Taken as Sport-hunted Trophies* (Mar. 1, 2018), <https://www.fws.gov/international/pdf/memo-withdrawal-of-certain-findings-ESA-listed-species-sport-hunted-trophies.pdf>; U.S. Fish and Wildlife Service, *Secretary Order No. 3355* (Aug. 31, 2017), https://www.doi.gov/sites/doi.gov/files/elips/documents/3355_-_streamlining_national_environmental_policy_reviews_and_implementation_of_executive_order_13807_establishing_discipline_and_accountability_in_the_environmental_review_and_permitting_process_for.pdf; 85 Fed. Reg. 18054 (Mar. 31, 2020).

41. DOI, Internal Memorandum, (Nov. 4, 2017), <https://assets.adobe.com/public/2530913d-8b45-4178-4fc2-4c7d4d280a87>; Jeremy Barnum, *National Park Service Ends Effort to Eliminate Sale of Disposable Water Bottles* (Aug. 16, 2017), <https://www.nps.gov/orgs/1207/08-16-2017-water-bottles.htm>.

DOI Moved Aggressively in the First 100 Days

Biden's DOI has appeared to combat this systematic deconstruction with an equally zealous push for reconstruction. While DOI had a later confirmation for its head of agency than some other federal agencies, it has not visibly suffered from it.

Secretary Deb Haaland (the first Native American cabinet secretary in U.S. history) was confirmed on March 15, 2021. Within her first three weeks as Secretary, she revoked twelve orders she deemed inconsistent with President Biden's Executive Order 13990, an order he issued on his first day in office. [42] In total, DOI has fully reversed 16 rollbacks, which accounts for 34 percent of all of the fully reversed rollbacks tracked by our team across all agencies. Similarly encouraging, out of the 52 tracked DOI rollbacks, 35 (or 67 percent) have had some movement towards reversal.

It is important to highlight that while these numbers are promising, they may not equate with equally immediate positive results. Upon a closer look, 12 of the 16 full reversals are actions that fall in the "easy" category, including agency guidance and internal memos. While revoking them does help undo damaging Trump-era policies, it is not apparent whether the revocation means the agency has reverted to old policies or will impose new requirements.

For example, according to Bloomberg Law, a DOI spokesperson said the revocation of S.O. 3348 – *Concerning the Federal Coal Moratorium* does not necessarily automatically reinstate the Obama-era coal moratorium, which effectively means coal leasing might continue until there is more clarity around the order. [43]

Biden's DOI has appeared to combat this systematic deconstruction with an equally zealous push for reconstruction.

Similarly, as noted in other sections, placing a rollback under agency review or delaying its implementation does not have a tangible positive impact, and it does little to stop the immediate harm occurring from these rollbacks. We found around 36 percent of the tracked DOI rollbacks were placed under agency review or had delayed implementation dates. DOI rollbacks in these categories were overwhelmingly in the "difficult" or "medium" category, signaling that the agency is headed in the right direction and is most likely constrained due to lack of time or resources. Actions categorized as difficult and medium were almost impossible to reverse in the first 100 days, given the time necessary to formulate and implement the actions.

Some actions that are not full reversals may have an immediate impact, however. Under the direction of President Biden, DOI paused all new oil and gas leasing activities, pending a review of the federal oil and gas leasing program. [44] While this is not a permanent

42. DOI, Press Release, *Secretary Haaland Establishes Climate Task Force, Strengthens Scientific Integrity* (Apr. 16, 2021), <https://www.doi.gov/news/secretary-haaland-establishes-climate-task-force-strengthens-scientific-integrity>.

43. Bobby Magill, *Interior Order Revokes Trump Moves on Coal Leasing Moratorium*, Bloomberg Law (Apr. 16, 2021), <https://news.bloomberglaw.com/environment-and-energy/interior-order-revokes-trump-moves-on-coal-leasing-moratorium>.

44. E.O. 14008, 86 Fed. Reg. 7619 (Jan. 27, 2021).

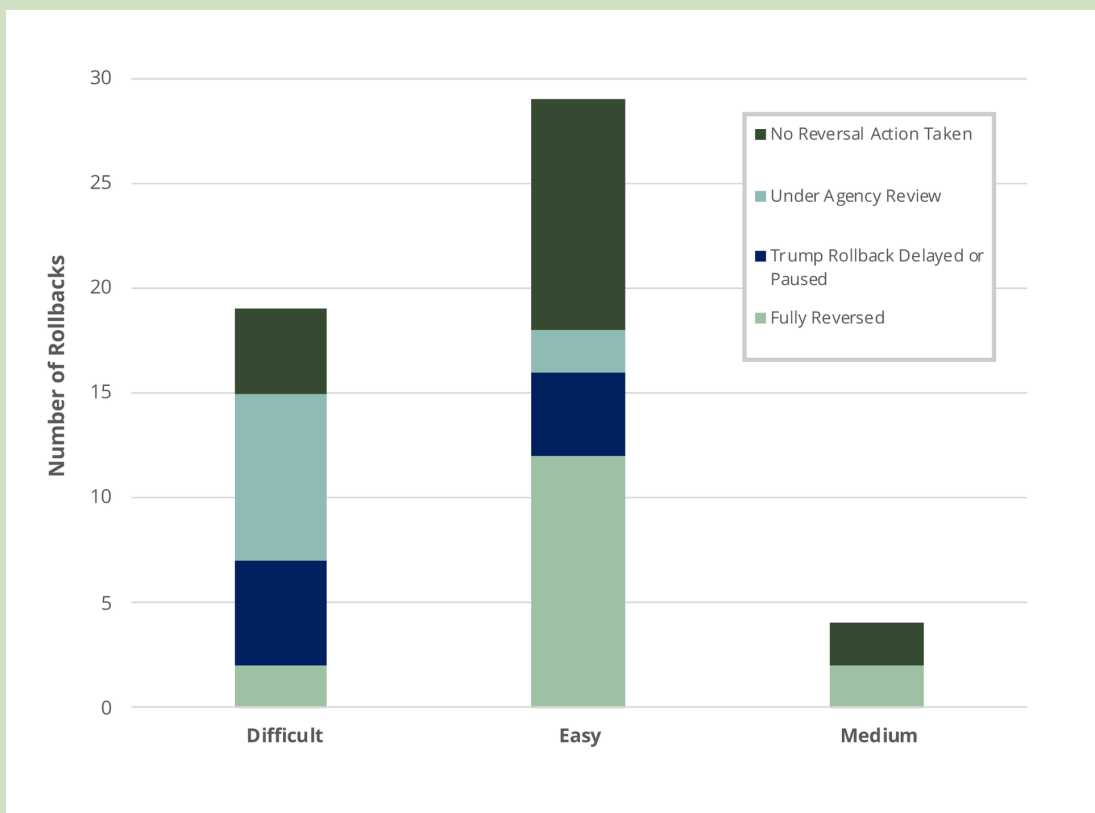


Figure 10. DOI Reversal Progress by Difficulty. Under our categorization system, Biden’s DOI has fully reversed many easy actions, but still has roughly a third with no reversal progress to date.

moratorium on new oil and gas leases, it allows time for DOI to reconsider and redefine the limits of oil and gas leasing without further sacrificing federal lands to harmful exploration or drilling.

DOI Has Already Implemented New Actions Highlighting Its Commitment to Conservation

This trend away from resource misuse to a climate focus is predicted to continue. Secretary Haaland has stressed the urgency of the climate crisis, stating, “we, as a Department, have a mandate to act.” [45] In reflection of this, Secretary Haaland signed Order No. 3399, which establishes a Climate Task Force to ensure climate change is considered in governmental decision-making and to facilitate access to information and greater participation for environmental justice and indigenous people groups. [46]

DOI’s actions are an encouraging start for those seeking a return to a resource-protective agenda.

45. DOI, Press Release, *Secretary Haaland Establishes Climate Task Force, Strengthens Scientific Integrity* (Apr. 16, 2021), <https://www.doi.gov/news/secretary-haaland-establishes-climate-task-force-strengthens-scientific-integrity>.

46. *Id.*

Environmental Protection Agency (EPA)

Although the Biden EPA Has only Fully Reversed a Few Rollbacks, Nearly Half are Under Review or in the Process of Being Reversed

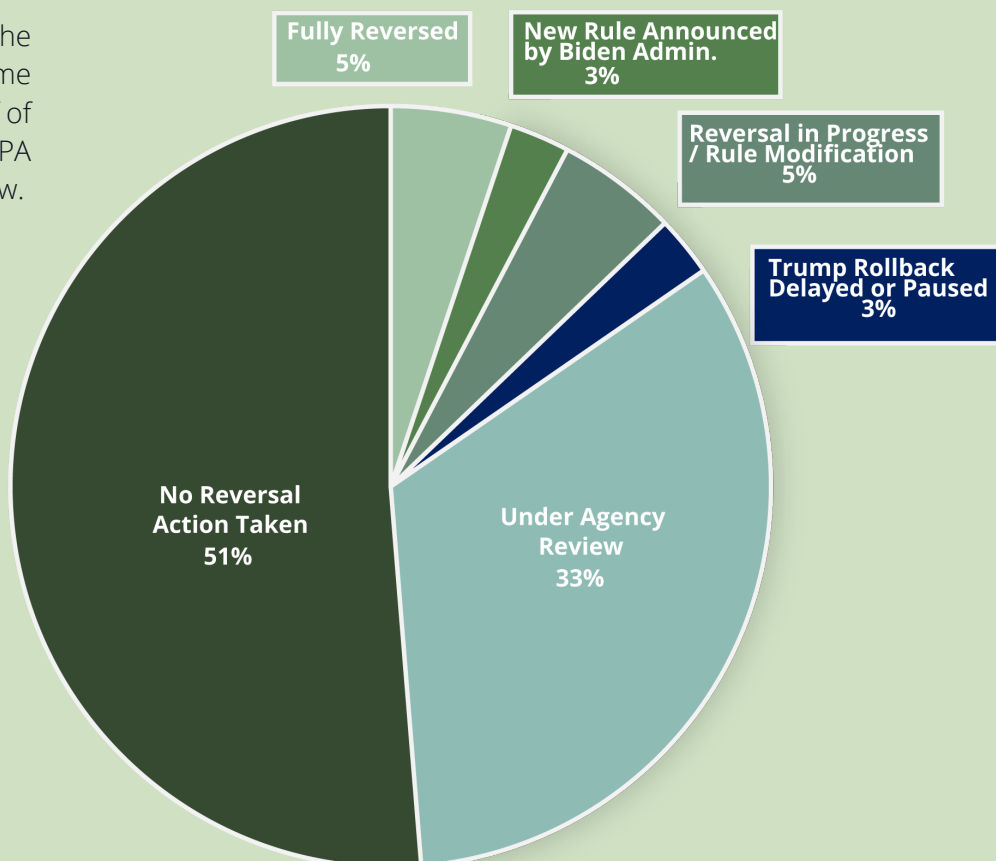
While only four Trump-era EPA environmental rollbacks are fully reversed to date, the Biden EPA has either partially reversed or is currently reviewing around half of the rollbacks our team followed. EPA's progress closely tracks the Biden administration's overall endeavors reversing the Trump rollbacks to date.

The four fully reversed EPA rollbacks during the Biden administration include three air and climate actions as well as one procedural action. [47] Of these four full

reversals occurring since Biden took office, courts vacated and remanded three rules on procedural grounds or due to an intervening judicial decision. [48] The Biden EPA also withdrew the Trump administration denial of a petition by a cohort of environmental groups which requested that the EPA establish national pollution limits for greenhouse gases. For those actions taking place in the courts, the Biden EPA successfully petitioned to stay and/or vacate and remand rules pending new agency action. The four fully reversed actions include:

- Rule: *Emission Guidelines for Municipal Solid Waste Landfills* (EPA Rollback #20) [49]
- Rule: *Pollutant-Specific Significant Contribution Finding for Greenhouse Gas Emissions from New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units, and Process for Determining Significance of Other NSPS Source Categories* (EPA Rollback #78) (See Case Study 2, which further describes this reversal.)

Figure 11. EPA Reversal Progress. The Biden administration has made some progress towards reversing around half of EPA's total rollbacks. A third of the EPA rollbacks are currently under agency review.



Case Study 2

Pollutant-Specific Significant Contribution Finding for Greenhouse Gas Emissions from Stationary Sources

Agency: Environmental Protection Agency (EPA)

Rollback: Rule (1/13/21)

Reversal: Vacated at EPA's Request (4/5/21)

Rollback: The EPA, under the Trump administration, issued a final rule on January 13, 2021, setting a minimum threshold for greenhouse gas emissions needed to trigger the regulation of an industrial source category under Section 111 of the Clean Air Act. [50] The rule required a source category to emit three percent of all U.S. greenhouse gases. While this would have allowed EPA to continue to regulate the large source category of fossil-fuel-powered electric generating facilities, it likely precluded future EPA regulation of greenhouse gases from potentially every other industrial class. For example, the next-highest-emitting source category, oil and gas production, would fall short, since it emits just under three percent of total U.S. greenhouse gases.

Reversal: Environmental and public health groups joined states to challenge the rule. In a March 17, 2021 motion for voluntary vacatur, the Biden EPA declared the rulemaking procedurally deficient, citing the failure of the agency to

provide any opportunity for public notice and comment on the significant contribution rulemaking. On April 4, the D.C. Circuit granted EPA's request to vacate the rule, allowing the Biden administration to pursue greenhouse gas regulation using the existing provisions of the Clean Air Act.

Analysis: The Biden EPA's reversal strategy shows how the agency used ongoing litigation and procedural deficiencies with the Trump EPA's rulemaking to its advantage, successfully invalidating a rule that would have allowed the vast majority of U.S. industrial greenhouse gases to go unregulated under the Clean Air Act. While regulation of greenhouse gases under Section 111 will likely face legal challenges should the Biden administration aggressively pursue it, the agency's efforts to reverse the Trump rollback give it greater options to realize the administration's climate goals.

The Biden EPA successfully reversed a Trump-era rule that would have precluded the regulation of virtually all industrial greenhouse gases under the nation's primary legal tool for ensuring clean air.

- *Petition to Establish National Pollution Limits for Greenhouse Gases* (EPA #83)
- *Rule: Strengthening Transparency in Regulatory Science* (EPA #34)

Seven EPA rollbacks are either in the process of being reversed or have been partially reversed. Six of these are air and climate related. One is a pesticide regulation. In one case, the administration is in the process of reversing EPA guidance. President Biden issued a January 20, 2021 executive order revoking President Trump's directive initiating the weakening of the Obama-era Regional Haze Rule. [51] In another reversal in progress, the 9th Circuit Court of Appeals ordered the EPA to make a determination in 60 days whether to ban chlorpyrifos, a pesticide linked to developmental disabilities in children. [52] Environmental groups filed the suit in response to the Trump EPA's refusal to ban the pesticide. [53]

To date, the Biden administration has pursued the reversal of two EPA rollbacks through new rulemaking. An April 2021 proposed rule announced by the National Highway Traffic Safety Administration (NHTSA) [54] would reverse a 2019 EPA/NHTSA rollback that revoked California's waiver to regulate vehicle greenhouse gas emissions. [55] The Trump administration's waiver revocation purported to eliminate California's legal authority to set more restrictive standards than the federal Clean Air Act. This recent development shows that agencies are only just starting to wield their rulemaking authority. As the discussion in the overview section explains, this is to be expected due to the significant time needed to develop new rules. Executive agencies including the EPA will likely increase their use of rulemaking in the coming months.

The administration's reversal of the Lead and Copper Rule rollback combines federal investment through proposed legislation with agency regulation to accelerate the removal of lead pipes from the country's drinking water system.

In addition, EPA released a proposed rule on April 30 to limit the use of hydrofluorocarbons (HFCs), chemicals used in refrigeration and air conditioning. [56] The rule is meant to reduce these potent greenhouse gases by 85 percent over the next 15 years. The rule reverses the course of the Trump EPA, who announced in 2018 its refusal to enforce a 2015 rule restricting HFCs. [57] The proposed rule reflects the Biden administration's prioritization of actions with a high potential for mitigating global warming.

47. We have classified the EPA rollbacks into four different categories for a more granular analysis: air pollution and emissions, pesticide and chemical safety, procedure and transparency, and water. See Figure 11 for a more detailed breakdown.

48. In addition, a number of EPA rollbacks were reversed or halted during the Trump administration. Most prominently, the D.C. Circuit vacated the Trump administration's Affordable Clean Energy Rule on January 19, 2021, the final day of President Trump's term in office. *Am. Lung Ass'n v. Env't Prot. Agency*, 985 F.3d 914, 930 (D.C. Cir. 2021). Those actions are not reflected in this analysis, since they were reversed before the Biden administration took office.

49. For further information about these rollbacks and reversals, refer to our Rollback Tracker website: <https://www.law.berkeley.edu/research/clee/rollback-tracker>. These numbers refer to the numbering on the site.

50. 86 Fed. Reg. 2542 (Jan. 13, 2021).

51. 83 Fed. Reg. 16761 (Apr. 16, 2018).

52. *League of United Latin Am. Citizens v. Regan*, No. 19-71979, 2021 WL 1682251 (9th Cir. Apr. 29, 2021).

53. 84 Fed. Reg. 35555 (July 24, 2019).

54. 86 Fed. Reg. 22421 (Apr. 28, 2021).

55. 84 Fed. Reg. 51310 (Sept. 27, 2019).

56. EPA, Proposed Rule, *Phasedown of Hydrofluorocarbons: Establishing the Allowance Allocation and Trading Program under the American Innovation and Manufacturing Act* (April 30, 2021), https://www.epa.gov/sites/production/files/2021-05/documents/hfc_allocation_nprm_043021_admin.pdf (to be published in the Federal Register).

57. 83 Fed. Reg. 18431 (Apr. 27, 2018).

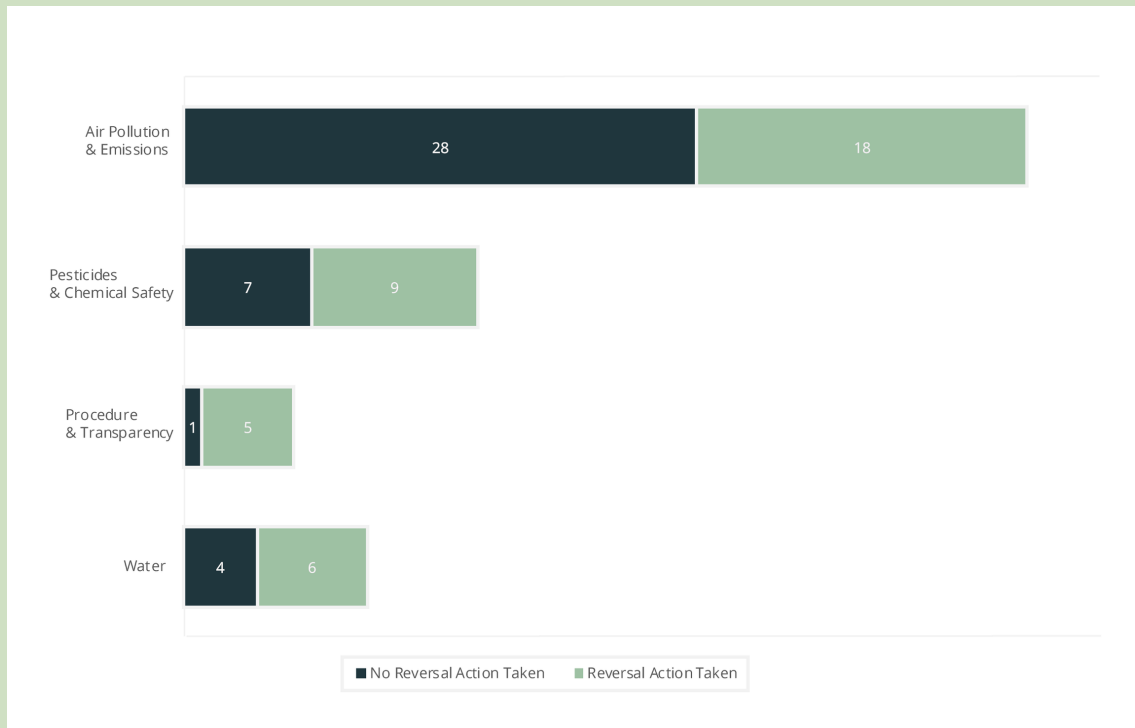


Figure 12. EPA Rollback Progress by Subject-Matter. Out of the four subject-matter areas, the air pollution and emissions category contains the largest total number of rollbacks. Proportionally, the Biden administration has made the most progress reversing procedure and transparency rollbacks.

On April 28, the Senate approved a resolution introduced by congressional Democrats in late March under the Congressional Review Act that would reverse a methane emissions rollback on oil and gas production and processing that, among other things, removed inspection and repair requirements for methane leaks. [58] This reversal would have a significant impact, since methane’s potency makes its reduction a central component to any meaningful greenhouse gas reduction strategy. The House is expected to vote on the resolution in the coming weeks, and President Biden is expected to sign the measure.

In a partial reversal, the Biden EPA moved up the timeline

by two years on the interstate implementation of the 2008 National Ambient Air Quality Standards for ozone in a March final rule, [59] mitigating proposed changes to the Cross-State Air Pollution Rule in an October 2020 proposed rule. [60] In March, the EPA also partially reversed a rollback dealing with air pollution emissions from power plants during periods of startup, shutdown, and malfunction (SSM). [61] The agency issued a final rule incorporating the findings of a 2008 D.C. Circuit ruling striking down certain types of SSM exemptions since the court found them to violate the Clean Air Act. These partial and ongoing reversals illustrate the complexity of the actions, as well as the varied cast of players involved.

The Biden EPA delayed two Trump EPA rollbacks, including revisions to the Lead and Copper Rule (see Case Study 3 for further information), and final rules on persistent, bioaccumulative and toxic chemicals (PBTs). [62] The Biden EPA reopened the PBT comment period to determine whether the rules sufficiently reduce exposure to the chemicals. [63] EPA extended the Lead and Copper Rule's effective date until December 16, 2021, explaining that the delay would allow it to complete a thorough review of the rule and consult with stakeholders. [64]

Finally, we identify 25 rollbacks that are currently under EPA review. President Biden's early executive orders directed agencies, including EPA most prominently, to review a significant number of agency actions completed under the prior administration. While the agency may not be taking formal, affirmative steps yet to reverse these rollbacks, the presidential directive to assess whether the actions remain consistent with the Biden administration's environmental agenda suggests that EPA will likely focus its attention in the coming months on reversal.

With No Reversal Progress Yet on Just Over Half the Rollbacks, EPA Could Take Swift Action on Four Relatively Easy Reversals

The Biden EPA has not taken any formal action on 40 out of 78, or just over half of the Trump-era rollbacks. Most of these rollbacks are difficult to reverse because they are final rules and actions. However, we have identified four easier reversals, or "low-hanging fruit," for the Biden EPA to focus on:

1. *Guidance Interpreting "Adjacent" for New Source Review and Title V Source Determinations under the Clean Air Act* (EPA Rollback #69)
 - Reversal Strategy: Withdraw guidance and issue a new memorandum restoring Obama-era guidance that directed EPA to consider a range of factors, of which physical proximity was only one part.
2. *Agency Policy: Revised Method for National Level Listed Species Biological Evaluations of Conventional Pesticides* (EPA #49)
 - Reversal Strategy: Reinstate the Obama-era agency policy.
3. *New 1,3 Dicamba Pesticide Registration* (EPA #71)
 - Reversal Strategy: Cancel the registration.
4. *Agency Policy: FY 2018-2022 EPA Strategic Plan* (EPA #24)
 - Reversal Strategy: Rerelease a fiscal plan from 2021 onwards that addresses climate change impacts.

Our team classified these agency actions as "easy" because they do not require the same level of procedural rigor as rulemakings. However, since most of the Trump rollbacks were accomplished through rulemaking, EPA must also begin the lengthier process of promulgating new rules to offset the Trump-era retreat on environmental regulation. Realistically, this process will take years to complete.

58. 85 Fed. Reg. 57018 (Sept. 14, 2020).

59. 86 Fed. Reg. 23054 (Apr. 30, 2021).

60. 85 Fed. Reg. 68964 (Oct. 30, 2020).

61. 86 Fed. Reg. 13819 (Mar. 11, 2021).

62. See EPA, *Persistent, Bioaccumulative, and Toxic (PBT) Chemicals under TSCA Section 6(h)*, <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/persistent-bioaccumulative-and-toxic-pbt-chemicals-under>.

63. 86 Fed. Reg. 14398 (Mar. 16, 2021).

64. 86 Fed. Reg. 14063 (Mar. 12, 2021).

The bulk of the Trump EPA rollbacks were promulgated through rulemaking, making them difficult to reverse. As discussed more fully in the overview section, agency rules require particular procedural requirements and satisfactory reasoning to withstand judicial challenge. Given that 58 out of 78 (nearly three-quarters) of President Trump's EPA rollbacks involved rulemaking, EPA will need to strategize how to effectively reverse these rules and implement new, more protective, policies with its finite agency resources.

Even though President Biden announced his pick of Michael Regan as EPA administrator a month before entering office, Regan was not confirmed by the Senate until March 10. In addition, lower-level political

appointments in EPA offices have yet to be filled. On April 14, Biden announced his intent to nominate individuals to fill other EPA leadership positions, including for the offices of water and chemical safety. [65] While a routine part of the first months of any new administration, the staffing shortage makes taking agency action all the more difficult.

As this analysis illustrates, while EPA deals with climate change, President Biden's top policy priority, the agency also regulates a vast array of other important areas, such as chemical and pesticide exposures, air and water pollution, and superfund cleanup.

EPA must weigh this diverse portfolio of ongoing responsibilities with President Biden's directives to determine which actions to pursue in what order. While it has not yet accomplished a significant number of full reversals, we are hopeful that EPA will continue reversing the Trump rollbacks as it implements the policies of the new administration.

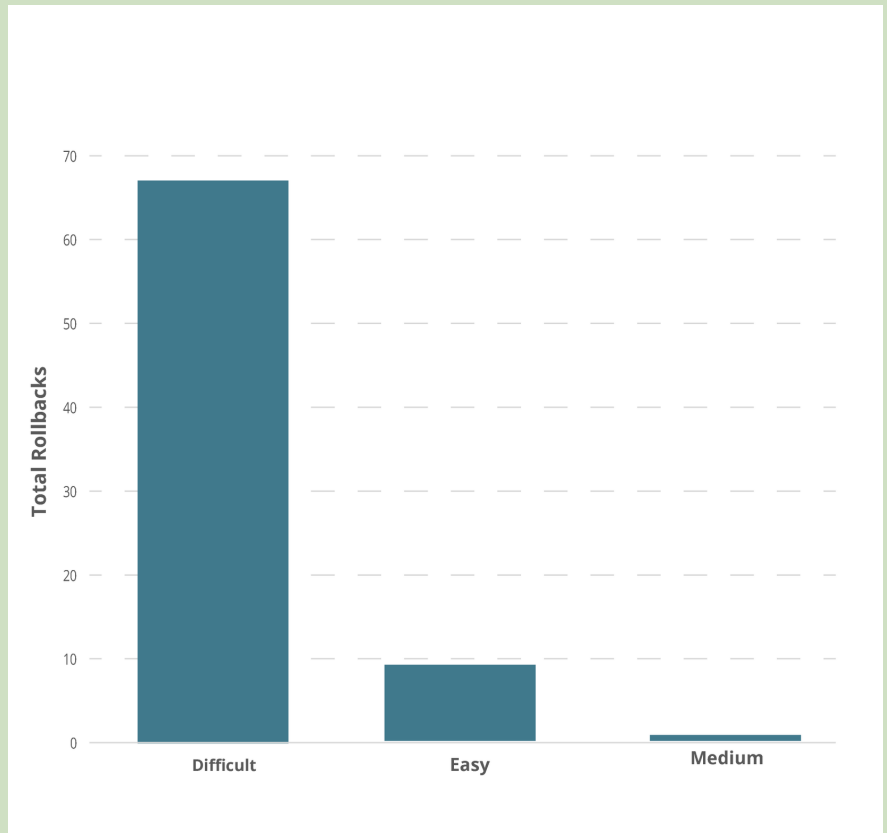


Figure 13. EPA Rollbacks by Difficulty of Reversal. The vast majority of EPA's rollbacks are difficult to reverse and will require new rulemaking.

65. White House Briefing Room, *President Biden Announces His Intent to Nominate Key Administration Leaders on Climate and Transportation* (Apr. 14, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/14/president-biden-announces-his-intent-to-nominate-key-administration-leaders-on-climate-and-transportation/>.

Case Study 3

National Primary Drinking Water Regulations: Lead and Copper Rule Revisions (LCRR)

Agency: EPA

Rollback Type: Rule (1/15/21)

Reversal: Delay and withdrawal of rule along with proposed investments

Rollback: Under the Trump Administration, EPA finalized a rule that did not lower the action level for replacing hazardous pipes, [66] and refrained from setting a legal maximum contaminant level. [67] It also allowed more than double the time for the removal of lead pipes from water systems that already had high levels of lead. [68] Upon entering office, President Biden signed the *Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*, [69] which directed the EPA administrator to review the final rule.

Reversal: On March 10, 2021, EPA announced it would delay the effective date of the rule from March 16, 2021 to June 17, 2021 in order to take public comment. [70] Then on March 12, 2021, EPA published a proposed rule to extend the rule's effective date until December 16, 2021. [71] EPA explained that the delay would allow it to complete a thorough review of the rule and "consult with stakeholders, including those who have been historically underserved by, or subject to discrimination in, Federal policies and programs prior to the LCRR going into

effect." [72] On March 31st, President Biden released the American Jobs Plan, which includes a goal to eliminate 100 percent of lead pipes and service lines in drinking water systems, with a particular focus on schools, childcare facilities, and communities of color. The plan calls on Congress to invest \$45 billion in the EPA's Drinking Water State Revolving Fund and in Water Infrastructure Improvements for the Nation Act grants. [73]

Analysis: The Biden EPA, along with the White House, are utilizing the federal rulemaking process along with federal investments from potential infrastructure legislation to accelerate the removal of lead pipes from the United States drinking water system. Lead pipes have received relatively little substantive action or investment from the federal government and are still a major public health and environmental justice issue in the United States. This reversal strategy has the potential to remove lead pipes from 400,000 schools and child care centers and six million to ten million homes according to the White House Fact Sheet released with the American Jobs Plan.

66. 86 Fed. Reg. 4198 (Jan. 15, 2021).

67. *See, e.g.*, Comments of the Attorneys General of New York, California, Maryland, Massachusetts, Minnesota, New Jersey, Oregon, Pennsylvania, and the District of Columbia (Apr. 12, 2021), <https://www.law.nyu.edu/sites/default/files/ag-comments-lead-copper-rule-delay.pdf>.

68. *Id.*

69. E.O. 13990, 86 Fed. Reg. 7037 (Jan. 25, 2021).

70. 86 Fed. Reg. 14003 (Mar. 10, 2021).

71. 86 Fed. Reg. 14063 (Mar. 12, 2021).

72. *Id.*

73. White House, Press Release, *Fact Sheet: The American Jobs Plan* (Mar. 31, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/31/fact-sheet-the-american-jobs-plan/>.

The White House

The White House Has Made Good Progress on Rollbacks

The White House reversals are interesting not only because they are administratively the closest reversal actions to President Biden, but also because they are often very public actions that face more media and political analysis, but less legal and scientific scrutiny, than agency actions. There are twenty-three total rollbacks that the White House has the prerogative to reverse. As of the 100-day mark in office, 13 (57 percent) of those rollbacks have been fully reversed, and five (22 percent) have had movement towards reversal.

The White House Has Targeted Reversals Thematically Thus Far

Of the rollbacks that have been fully reversed, there are a few noteworthy trends. One trend is that both rollbacks relating to federal land and national monuments (*Modifying the Bears Ears and Grand Staircase-Escalante National Monuments* [74] and *Modifying the Northeast Canyons and Seamounts Marine National Monument*) [75] have been fully reversed. These policies are notable for their public relations implications—both have seen large outcries from activists and concerned citizens—but also in that they represent some formal action on President Biden's January promise to conserve 30 percent of U.S. land and ocean by 2030, also known as “30 by 30” by activists.

Both of the Trump administration's internationally implicated rollbacks have action on the reversal front as well. President Biden issued an executive order on January 27th for

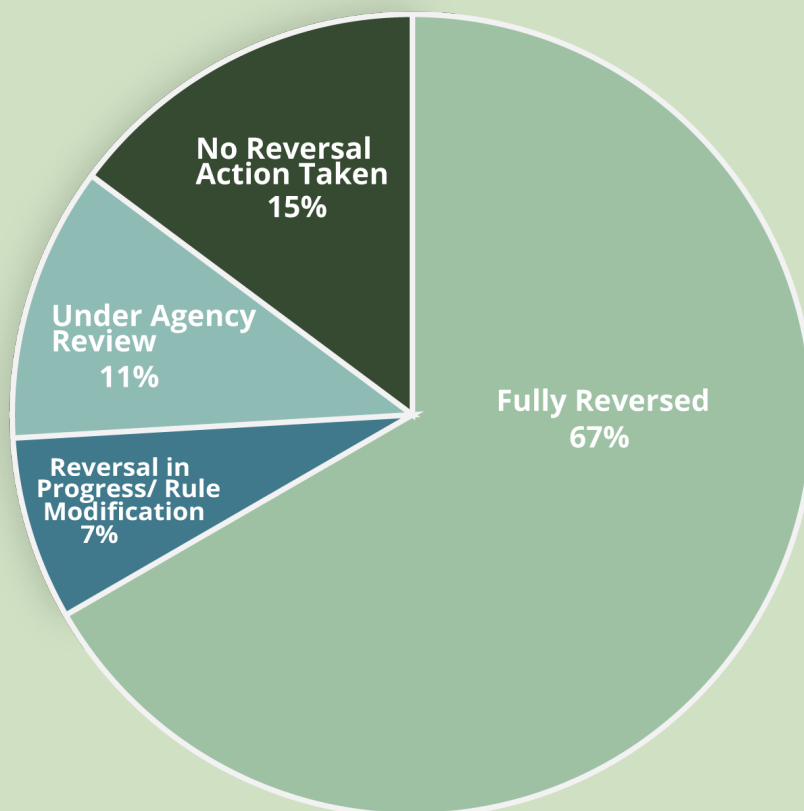


Figure 14. White House Reversal Progress. The White House has fully reversed around two-thirds of its rollbacks. This large number of reversals is explained by the fact that executive orders are much easier to undo than other forms of administrative action.

the United States to rejoin the Paris Climate Agreement – which President Trump withdrew from early on in his term. The President has also set the nationally determined contributions for greenhouse gas reduction to 50-52 percent lower than 2005 levels by 2030. [76] On April 10th, President Biden’s proposed budget requested to make a \$1.2 billion contribution to the Green Climate Fund, to which President Trump had formerly halted all U.S. contributions. [77] These two actions are clear signals to the rest of the world that the United States is ready to reenter the global climate negotiation and is taking tangible action to support global climate efforts.

Two of the rollbacks currently in the process of reversal are the data removal rollbacks. [78] These rollbacks will likely remain in the “in process” phase for a relatively long period of time, as the re-addition of references to climate change and other important data from agency websites and the re-addition of important EPA webpages will take some time to complete and will be particularly challenging to track. The work on this front signals that the administration plans to be more transparent online with data and information.

Executive Actions May Be “Easy,” But Are Impermanent

The White House has no rulemaking authority, and so must depend on executive orders to take direct action. While the executive order is one of the most expedited policy tools a President has at his or her disposal, they are not very long-lasting. Typically, executive orders only last until the opposing party regains the White House, which makes the action a double-edged sword. It allows President Biden to reverse Trump-era executive orders, but makes his own executive orders just as impermanent. Of the 23 Trump-era rollbacks under the White House’s jurisdiction, 15 are executive orders. Twelve of those rollbacks have been entirely reversed by the 100-day mark of the new administration—meaning that of the 13 full reversals completed by the White House already, only one is not a rescinded executive order. It also means that two of President Trump’s executive orders still remain: *Executive Order 13867: Issuance of Permits With Respect to Facilities and Land Transportation Crossings at the International Boundaries of US* [79] and *Executive Order 13840: Ocean Policy to Advance the Economic, Security, and Environmental Interests of the United States*. [80] There seems to be no correlation between the untouched executive orders, except perhaps that the rescission of neither fell neatly into Biden’s own executive orders. The White House’s *Formal Notification of Intention to Stop Payments to the Green Climate Fund*, [81] the only completed reversal that was not an executive order, was achieved via a budget move.

74. E.O. 13990, 86 Fed. Reg. 7037 (Jan. 25, 2021).

75. *Id.*

76. White House, Press Release, *Fact Sheet: President Biden Sets 2030 Greenhouse Gas Pollution Reduction Target Aimed at Creating Good-Paying Union Jobs and Securing U.S. Leadership on Clean Energy Technologies* (Apr. 22, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/22/fact-sheet-president-biden-sets-2030-greenhouse-gas-pollution-reduction-target-aimed-at-creating-good-paying-union-jobs-and-securing-u-s-leadership-on-clean-energy-technologies/>.

77. White House, Discretionary Request (Apr. 9, 2021), <https://www.whitehouse.gov/wp-content/uploads/2021/04/FY2022-Discretionary-Request.pdf>.

78. For more information on information removal rollbacks, see this paper: <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0246450> and/or this report: <https://envirodatagov.org/publication/the-new-digital-landscape-how-the-trump-administration-has-undermined-federal-web-infrastructures-for-climate-information/>.

79. E.O. 13867, 84 Fed. Reg. 15491 (Apr. 10, 2019).

80. E.O. 13840, 83 Fed. Reg. 29431 (June 19, 2018).

81. White House, *Budget FY 2018 - America First: A Budget Blueprint to Make America Great Again, Budget of the United States Government, Fiscal Year 2018* (Mar. 16, 2017), <https://www.govinfo.gov/app/details/BUDGET-2018-BLUEPRINT/summary>.

Conclusion

President Biden's implementation of his environmental agenda reveals a holistic approach. His infrastructure legislation has the potential to be a fundamental shift in foundational systems like the electrical grid and transportation sector. The administration's statements emphasizing environmental justice suggest a refocusing of the way governmental entities intersect with and consider the needs of diverse communities. And, engaging with world leaders to establish commitments in a global climate summit shows that the U.S. is again a willing participant in international climate change negotiations.

This proactive, whole-of-government approach necessarily encompasses a range of new initiatives and a long list of actions to reverse the damage of the prior administration. Our analysis shows that through its first 100 days, the Biden Administration has made significant gains in addressing the Trump rollbacks. Even so, complete reversal of these actions will take years of coordinated agency focus and success throughout the rulemaking process and subsequent litigation.

Even if it is unknown at this point whether agencies will completely reverse all the Trump rollbacks in the next four or eight years, President Biden's broader commitments for the U.S. to pursue climate action and environmental justice show substantial progress. In only 100 days, President Biden and his administration initiated the reversal of at least 57 percent of the rollbacks that were implemented over four years of the Trump administration. Furthermore, the New Actions tracker shows that the new administration is also equally dedicated to undoing the *rollbacks by omission* that occurred during the Trump Administration. [82] While it is difficult to truly track these failures to act, the cumulative effects of nonaction on the part of the executive agencies under President Trump may have been as harmful as the execution of the administration's proactive policy.

Despite the breadth of actions taken, Biden's administration has not approached these reversals with uniform focus. For example, there are a variety of "easy" rollbacks that have been unaddressed. These unaddressed actions may be a factor of the limited time-window in which we observed the administration's actions, but they may also be policies the Biden administration intends to keep. Another interpretation could be that agencies are more concerned with impact than effort: the number of "difficult" rollbacks addressed may demonstrate that the Biden administration is committed to rooting out even the most administratively entrenched Trump-era rollbacks, with regard only for overall impact.

Our analysis shows that the administration's far-reaching initiatives have already reversed many of the Trump rollbacks. And while the curation and classification of rollbacks and reversals is more an art than science, it offers a possible prediction on the administration's future actions. Having only taken 100 days to fully or partially undo a substantial portion of four years of anti-environmental work, we hope to see most, if not all, of these rollbacks reversed during Biden's term in office.

Even though we predict the overall trend will continue, it is possible the same velocity of reversals will not continue in the coming months. We have observed how many of the full and partial

82. For a full list of the new actions we tracked, see Annex 4 or see our First 100 Days website at <https://www.law.berkeley.edu/research/clee/first-100-days/>.

reversals that have already occurred are parts of larger administrative strategies—like President Biden’s Infrastructure Plan and his Proposed Budget. While these broad-sweeping actions certainly have started much needed change, agencies will need to triage the administration’s major policy agenda with their more granular duties. Many of the remaining rollbacks will require lengthy processes and a diversity of policy instruments. It seems the Biden administration is prepared to meet these challenges, however, having already embedded reversals in all of its administrative actions, including in legislation, executive pronouncements, new initiatives, agency actions, and court challenges.

Looking forward, there are still many questions surrounding President Biden’s willingness and ability to meet the breadth and scale required to address the global environmental and climate crises, but his holistic approach, rhetoric, and first 100 days are an encouraging start for those concerned with preserving our environment and climate for future generations.

Annexes

Annex 1: Categorization of Actions By Ease of Reversal

Easy

- Agency Policy
- Executive Order
- Proposed Rule
- Permits (no EIS required)
- Guidance
- Internal Memo
- Informal Agency Action
- Requests for Information
- Registration
- Executive Budget Cut
- Executive Proclamation
- Removal of Data
- Petition of Denial
- Notice of Intent

Medium

- Environmental Assessment
- Environmental Impact Statement
- Executive Memo

Difficult

- Final Rule
- Presidential Permit
- Record of Decision
- Legislation
- Nullified Rule with Congressional Review Act
- Rule Withdrawal
- Delayed Rules
- Litigation
- Denial of Petition
- Notice of Revisions

Annex 2: Full List of Federal Agencies Tracked for Rollback

Below is the list of 22 agencies CLEE tracked for Trump administration rollbacks as well as potential reversal by the Biden Administration. Agencies are listed alphabetically, with subordinated agencies under their parent agency. If we did not track any rollbacks within the parent agency, then it is not listed.

1. Army Corps of Engineers
2. Department of Agriculture (USDA)
 - a. United States Forest Service (USFS)
3. Department of Energy (DOE)
 - a. Federal Energy Regulatory Commission (FERC)
4. Department of Housing and Urban Development (HUD)
5. Department of Interior (DOI)
 - a. Bureau of Land Management (BLM)
 - b. United States Fish and Wildlife Services (USFWS)
6. Department of Justice (DOJ)
7. Department of Labor (DOL)
8. Department of Transportation (DOT)
 - a. Pipeline and Hazardous Material Safety Administration (PHMSA)
9. Department of Treasury
10. Environmental Protection Agency (EPA)
11. Executive Office of the President (White House)
 - a. Council on Environmental Quality (CEQ)
 - b. Office of Management and Budget (OMB)
12. National Oceanic and Atmospheric Administration (NOAA) (U.S. Dept. of Commerce)
13. Nuclear Regulatory Commission (NRC)
14. Securities and Exchange Commission (SEC)
15. Small Business Administration (SBA)

Annex 3: Breakdown of Data for Other Agencies

Federal Energy Regulatory Commission

Reversal Action	Total
No Reversal Progress Yet	2
Fully Reversed (rescinded, revoked, withdrawn, etc.)	2
Under Agency Review	0
Trump Rollback Delayed	0
New Rule Proposed/Reversal in Progress	0
Total Number of Rollbacks	4

One of FERC's rollbacks was terminated during the Trump administration.

National Oceanic and Atmospheric Administration

Reversal Action	Total
No Reversal Progress Yet	3
Fully Reversed (rescinded, revoked, withdrawn, etc.)	1
Under Agency Review	1
Trump Rollback Delayed	0
New Rule Proposed/Reversal in Progress	0
Total Number of Rollbacks	5

Both of NOAA's rollbacks with reversal progress have to do with the taking of Marine Mammals.

Office of Management and Budget

Reversal Action	Total
No Reversal Progress Yet	1
Fully Reversed (rescinded, revoked, withdrawn, etc.)	1
Under Agency Review	0
Trump Rollback Delayed	0
New Rule Proposed/Reversal in Progress	0
Total Number of Rollbacks	2

U.S. Forest Service

Reversal Action	Total
No Reversal Progress Yet	3
Fully Reversed (rescinded, revoked, withdrawn, etc.)	1
Under Agency Review	1
Trump Rollback Delayed	0
New Rule Proposed/Reversal in Progress	0
Total Number of Rollbacks	5

USFS has made no movements yet on their rollbacks.

Office of Management and Budget

Reversal Action	Total
No Reversal Progress Yet	9
Fully Reversed (rescinded, revoked, withdrawn, etc.)	4
Under Agency Review	2
Trump Rollback Delayed	0
New Rule Proposed/Reversal in Progress	0
Total Number of Rollbacks	15

Annex 4: New Actions of the First 100 Days

Below is a brief summary of 37 new actions of the Biden administration compiled by CLEE. For more details related to the new actions as well as links to the original actions see our First 100 Days webpage [83] or the New Actions List tab on our tracking spreadsheet. [84]

#	Date	Title	Action	Description
1	1/20/21	Re-Entry to Paris Climate Agreement	Presidential Statement of Acceptance	The United States officially re-entered Paris Climate Agreement.
2	1/20/21	Regulatory Freeze Pending Review	Executive Memorandum	Froze all pending rules and withdrew any proposed rules pending, subject to review and approval by administration officials.
3	1/20/21	Modernizing Regulatory Review	Presidential Memorandum	Directed OMB to revise Circular A-4 and modernize regulatory review to reflect environmental, scientific, equity, and other considerations.
4	1/20/21	Executive Order 13990: Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis	Executive Order	Revoked multiple Trump-era environmental and regulatory executive orders; withdrew presidential permit for Keystone XL Pipeline; directed immediate agency review of automobile fuel efficiency, methane emission, appliance energy efficiency, and other rules; established social cost of carbon working group.
5	1/20/21	Executive Order 13992: Revocation of Certain Executive Orders Concerning Federal Regulation	Executive Order	Revoked multiple Trump-era regulatory executive orders, including E.O. 13771 and E.O. 13777.
6	1/20/21	DOI Secretarial Order No. 3395: Temporary Suspension of Delegated Authority	Secretarial Order	Suspended DOI's authority to issue new regulations and new public lands leases, among other items, for 60 days pending confirmation of the new departmental leadership team.
7	1/21/21	Request to seek abeyance or stay of proceeding in pending EPA litigation	Request Letter	EPA formally requested that DOJ seek and obtain abeyances or stays of proceedings in all pending litigation relating to EPA regulations promulgated during the Trump Administration.

83. *First 100 Days*, CLEE, <https://www.law.berkeley.edu/research/clee/first-100-days/> (last updated Apr. 30, 2021).


84. "New Actions List," *Environmental Rollbacks Assessment*, <https://docs.google.com/spreadsheets/d/1o5V1ZyUm9YmeS5SoRudXAR8I-yDYi1Juk3XftGJPml/edit?usp=sharing> (last updated Apr. 30, 2021).

8	1/21/21	Streamlining Offshore Wind Permitting	Interagency Agreement	BOEM and BSEE announced an agreement to coordinate regulation of offshore renewable energy. On March 8, BOEM announced the completion of the Vineyard Wind Environmental Impact Statement.
9	1/26/21	Memorandum on Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies	Presidential Memorandum	Stated federal policy of ending housing discrimination and promoting inclusive communities and directed HUD to review the 2020 "Preserving Community and Neighborhood Choice" rule and take necessary steps to affirmatively further fair housing, which could have long-term impacts with respect to environmental justice and disproportionate exposure to pollution.
10	1/26/21	Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships	Presidential Memorandum	Directed all federal agencies to develop and implement a plan of action for consultation with tribal officials on development of federal policies that have tribal implications, which could have long-term impacts on fossil fuel and renewable energy development policy.
11	1/27/21	Establishment of the White House Environmental Justice Advisory Council	Council	President Biden established the White House Environmental Justice Advisory Council (WHEJAC) to offer recommendations and bring greater visibility to EJ issues across the federal government. On March 29, the White House announced WHEJAC members, who are meant to bring expertise and lived experience, representing a diverse set of geographical regions.
12	1/27/21	Executive Order on Tackling the Climate Crisis at	Executive Order	Initiated a whole-of-government approach to climate change analysis, mitigation, and planning, including national security and foreign relations, government
13	1/27/21	Executive Order on the President's Council of Advisors on Science and Technology	Executive Order	Created a council of advisors on science and technology to advise the president on science and technological information needed to inform policy relating to the environment (among other issues).
14	1/27/21	Memorandum on Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking	Presidential Memorandum	Directed a review of federal scientific-integrity policies and required all federal agencies to update their policies, and directed OMB to issue guidance on evidence-based policymaking.

15	2/1/21	SEC Senior Policy Advisor for Climate and ESG	New Position	Acting Commissioner Allison Herren Lee announced the hiring of Satyam Khanna for the position of Senior Policy Advisor for Climate and ESG. The position will be in the office of Acting Chair of the SEC.
16	2/3/21	Senior Climate Advisor	New Position	NASA announced a new position which is intended to put greater emphasis at the agency on studying global warming.
17	2/5/21	Withdrawal of DOJ Enforcement Discretion	Agency Memorandum	DOJ issued a departmental memorandum withdrawing Trump-era guidance that loosened enforcement of environmental laws, reinstating the prior Obama administration approach to environmental enforcement.
18	2/9/21	Rebuilding and Enhancing Programs To Resettle Refugees and Planning for the Impact of Climate Change on Migration	Executive Order	Executive Order 14013 withdraws Trump-era immigration policy. It also requires the Secretary of Defense, the Secretary of Homeland Security, the Administrator of the United States Agency for International Development, and the Director of National Intelligence, to prepare and submit to the President a report on climate change and its impact on migration, including forced migration, internal displacement, and planned relocation.
19	2/11/21	FERC Environmental Justice Position	New Position	Chairman Richard Glick announced plans to create a senior position at FERC to incorporate and coordinate environmental justice and equity concerns in the agency's decision-making process.
20	2/22/21	Examining Electric Reliability in the Face of Climate Change	Proceeding	FERC announced it would open a new proceeding to examine the threat that climate change and extreme weather events pose to electric reliability.
21	2/23/21	Roadmap for a Renewed U.S.-Canada Partnership	Roadmap	Canada and the United States created a blueprint for the future including forming a partnership on climate change. Specific actions include: implementing the Paris Agreement in tandem; launching a High Level Climate Ministerial, which will coordinate cooperation
22	2/24/21	SEC Updating Guidance for Climate Disclosures	Statement on the Review of Climate-Related Disclosure	In a statement released by acting SEC Chair Allison Herran Lee she announced that she is " directing the Division of Corporation Finance to enhance its focus on climate-related disclosure in public company filings."
23	2/24/21	Executive Order on America's Supply Chains	Executive Order	The Executive Order is focused on supply chain resilience, including the supply chain for high-capacity batteries critical to electric vehicle and energy storage technologies. It directed various federal agencies to review supply chain risks over the next 100 days as well as produce reports on supply chains for different industrial bases within one year of signing.

24	3/9/21	Climate Working Group	Memorandum	Pursuant to E.O. 14008, the Department of Defense is establishing a climate working group to incorporate climate risk analysis into every decision and plan.
25	3/23/21	Financial Stability Climate Committee (FSCC)	New Committee	Fed. Reserve Gov. Lael Brainard announced the creation of a second climate change risk committee to evaluate the risk climate change poses to the entire financial system.
26	3/25/21	Energy Conservation Program: Energy Conservation Standards for Consumer Products; Early Assessment Review; Boilers	Proposed Rule/RFI	DOE is undertaking an early assessment review for consumer boilers to determine whether to amend the applicable energy conservation standards for this product. DOE seeks data and information to evaluate whether amended energy conservation standards would result in significant savings of energy, be technologically feasible, and be economically justified.
27	3/25/21	DOE Announces Goal to Cut Solar Costs by More than Half by 2030	Goal	The DOE announced the goal of cutting the cost of solar by 60% within the next 10 years to 3 cents per kilowatt-hour (kWh) by 2025 and 2 cents per kWh by 2030. The announcement also said the goal would be backed by "\$128 million in funding to lower costs, improve performance, and speed the deployment of solar energy technologies."
28	3/29/21	Task Force on Scientific Integrity of the National Science and Technology Council (NSTC)	Task Force	The White House Office of Science and Technology Policy announced the creation of a task force to review and consider whether existing scientific policies prevent improper political interference, prevent the suppression of finding, data, or conclusions, support scientists of all genders, race, ethnicities and background, and advance equitable delivery of federal programs.
29	3/31/21	The American Jobs Plan	Infrastructure Spending Plan	President Biden released an enormous Infrastructure plan that proposed \$2.25 trillion in spending over the next eight years. Included in the plan is a \$174 billion investment in EVs, a pathway to replace 50,000 diesel transit vehicles and electrify 20% of school buses. It also will rely on nature-based infrastructure when possible to build community resilience to climate events. Other climate allocations include \$10 billion investment for the new Civilian Climate Corps, \$35 billion toward the pursuit of climate science, innovation, and R&D, and a \$46 billion investment leveraging federal buying power in order to spur clean energy manufacturing.

30	4/7/21	Directive on Environmental Racism	Directive	EPA Director Michael Regan issued a directive to his staff to “infuse equity and environmental justice principles and priorities into all EPA practices, policies, and programs,” using every tool available to the agency.
31	4/15/21	DOE Announces \$162 Million to Decarbonize Cars and Trucks	DOE Press Release	DOE's Energy Efficiency and Renewable Energy's Vehicle Technologies Office (VTO) and Hydrogen and Fuel Cell Technologies Office announced up to \$100 million over four years for the “SuperTruck 3” to electrify medium- and heavy-duty trucks and freight systems. VTO also announced up to \$62.75 million for its Low Greenhouse Gas Vehicle Technologies Research, Development, Demonstration, and Deployment program.
32	4/16/21	Establishment of DOI Climate Task Force	DOI Secretarial Order	On April 16, 2021, Secretary of the Interior Deb Haaland signed two orders. Order 3399 established a Departmental Climate Task Force tasked with addressing climate pollution, improving resilience, addressing current and historic injustice, and conserving DOI lands.
33	4/22/21	2030 Greenhouse Gas Pollution Reduction Target	NDC Announcement	In remarks at a White House Summit, President Biden announced the United States' Nationally Determined Contribution (NDC) for the Paris Climate Agreement. The goal is to reduce emissions by 50-52 percent below 2005 levels by 2030 economy wide. The announcement lays out high-level summaries with a forthcoming task force planned which determine specific sector-by-sector strategies.
34	4/22/21	Electric Vehicle Charging Infrastructure Advances	Agency Actions	The White House announced three agency actions aimed at accelerating the deployment of electric vehicles and charging infrastructure. DOT announced new alternative fuel corridors and grant guidance. DOE announced \$34 million in funding and partnerships for research and development related to chargers. GSA announced a focus on electrifying the federal fleet as well as updates on current
35	4/22/21	U.S. International Climate Finance Plan	Plan	The White House released the U.S. International Climate Finance Plan, which was called for by E.O. 14008. The plan has five parts and outlines how the U.S. can leverage “financial resources to assist developing countries to reduce and/or avoid greenhouse gas emissions and build resilience and adapt to the impacts of climate change.”

36	4/27/21	Expansion & Modernization of the Electric Grid	Agency Actions	The White House announced actions taken by DOE and DOT aimed at increasing investments in the electric grid. DOE announced two new sources of financing including a \$3.25 billion from Western Area Power Administration Transmission Infrastructure Program and \$5 billion from the Loan Programs Office. DOT announced support for utilizing rights-of-ways such as public highways to accelerate the siting and permitting process for new transmission lines.
37	4/30/21	Phasedown of Hydrofluorocarbons: Establishing the Allowance Allocation and Trading Program under the American Innovation and Manufacturing Act	EPA	On April 30, 2021, EPA issued a proposed rule to reduce the use of hydrofluorocarbons (HFCs), chemicals used in refrigeration and air conditioning, under the American Innovation and Manufacturing (AIM) Act of 2020. The proposed rule sets HFC production and consumption baseline levels, with the end goal set in the AIM act of reducing these potent greenhouse gases by 85 percent over the next 15 years. 



Clara Barnosky
Jane Sadler
Richard Yates
Zachary Zimmerman