During the campaign and throughout his early days in office, President Biden has called climate change one of the four “historic crises” facing the US, along with the COVID-19 pandemic, the economy and racial injustice. On January 27th, President Biden signed three Executive Orders that set forth a sweeping “whole of government” approach to addressing climate change. These Orders build upon three prior Executive Orders that President Biden signed on day one of his Presidency.

Arguably, the most significant of these early actions by President Biden was the January 27, 2021 “Executive Order on Tackling the Climate Crisis at Home and Abroad.” Below is a summary of the key provisions from this Executive Order.

International efforts

The first part of the Executive Order addresses international efforts to combat climate change, stating that climate considerations will be an essential element of US foreign policy and national security. The Executive Order directs federal agencies to integrate climate considerations into their international work, including consideration of the climate impacts of broad agency strategies, particularly in directing the Director of National Intelligence, the Secretary of Defense, the Secretary of Homeland Security and the Chairman of the Joint Chiefs of Staff to provide reports on the security implications of climate change.

Under the Executive Order, the US will host a Leaders’ Climate Summit on April 22nd to help build momentum toward increasing countries’ commitments ahead of this year’s United Nations Climate Change Conference of Parties (COP26), at which parties will submit updated National Determined Contributions (NDC) pursuant to the Paris Agreement. The Executive Order specifically states that the US will immediately begin developing its NDC and release it ahead of the Leaders’ Climate Summit. The US indicated that it will rejoin the Paris Agreement in one of Biden’s first acts as President.

The Executive Order also directs the US to work through other multilateral forums, such as the G7 and G20, to advance climate change objectives, while also issuing a climate finance plan and leveraging multilateral and bilateral channels, to help developing countries implement ambitious climate change mitigation and adaptation strategies. The federal government is also directed to identify steps to end international financing of fossil fuels, while the Secretary of Energy must increase international collaboration to develop and deploy clean energy technologies.

White House Office of Domestic Climate Policy

The Executive Order formally establishes the White House Office of Domestic Climate Policy headed by the National
Climate Advisor and a National Climate Task Force consisting of membership of the various Executive Branch agency heads. President Biden has already appointed Gina McCarthy, the former Environmental Protection Agency (EPA) Administrator and head of the Natural Resources Defense Council, as the National Climate Advisor. Ms. McCarthy will lead the development and implementation of a “whole of government” approach to addressing climate change. Each federal agency must submit a draft action plan to the Task Force that describes the agency’s efforts to bolster adaption and increase resilience to the impacts of climate change and submit annual progress reports to the Task Force on the status of implementation efforts.

Federal procurement of renewable energy and zero-emission vehicles

The Chair of the Council on Environmental Quality, the Administrator of General Services, and the Director of the Office and Management and Budget, along with other relevant federal agency heads, shall assist the National Climate Advisor in developing a comprehensive plan on federal procurement of clean electricity and zero-emissions vehicles. The comprehensive plan is aimed at helping to support President Biden’s goal of decarbonizing the electricity sector no later than 2035 and retaining union jobs that the executive order deems as “integral” to producing zero-emission fleets. Within 90 days, the comprehensive plan must be submitted to the task force. Consistent with President Biden’s January 25th Executive Order entitled “Ensuring the Future is Made in All of America by All of America’s Workers,” federal agencies are to adhere to Buy American requirements in making procurement decisions.

Offshore wind and other renewable resources

The Offshore Wind provision of the Executive Order directs the Secretary of the Interior to review siting and permitting processes on public lands and in offshore waters to identify steps to increase renewable energy production with the goal of doubling offshore wind by 2030. The Secretary of the Interior is to report to the Task Force on its findings.

Federal oil and gas leasing moratorium

One of more controversial provisions in the Executive Order directs the Secretary of the Interior to pause new oil and gas leasing on public lands pending the completion of a comprehensive review of federal oil and gas permitting and leasing practices. The Interior Department must assess climate change impacts associated with oil and gas activities on public lands or in offshore waters, and consider whether to adjust royalties associated with production on public lands to account for corresponding climate costs. Legal challenges to this provision have been filed.

A separate provision of the Executive Order also directs agency heads to identify any fossil fuel subsidies provided by their agencies and take steps to ensure that federal funding is not directly subsidizing fossil fuels. The Director of the Office of Management and Budget is to eliminate fossil fuel subsidies in the budget request for the Fiscal Year 2022 and thereafter. It is worth noting that President Obama also called for repealing tax incentives for fossil fuel production, but Congress declined to eliminate these provisions.

Worker training and community revitalization
The Executive Order states that the policy of the Biden administration is to put forth a new generation of Americans to work in conserving public lands and waters. In furtherance of that policy goal, the Executive Order directs the Secretary of the Interior to create a Civilian Climate Corps Initiative to mobilize workers to maximize accessible training opportunities and good jobs.

The January 27th Executive Order also establishes an Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization to coordinate the identification and delivery of Federal money to revitalize the economies of coal, oil and gas and power plant communities. Within 60 days, the Interagency Working Group is to submit a report to the President describing all options to prioritize grant making, Federal loan programs, technical assistance, financing, procurement or other programs to support and revitalize the economies of these communities. The Interagency Working Group will be within the Department of Energy and is to submit regular reports to the National Climate Advisor and the Assistant to the President for Economic Policy discussing the progress made in revitalization efforts.

Environmental justice

The Executive Order also establishes a White House Environmental Justice Interagency Council and the White House Environmental Justice Advisory Council within the EPA. The Interagency Council will be composed of the heads up of the federal agencies for the purpose of developing a strategy to address current and historical environmental injustice. Members to the Interagency Council will be appointed by the President and the Council is to include members with knowledge or experience in environmental justice, climate change, disaster preparedness, racial inequity and other areas. Within 120 days, the Chair of the Council on Environmental Quality, the Director of the Office of Management and Budget, and the National Climate Advisor, in consultation with the Advisory Council, will jointly publish recommendations on how at least 40% of clean energy, efficiency and sustainability investments can be made in disadvantaged communities.

On January 27th, President Biden also signed two other science-related executive orders. The first Order reaffirms the role of science in federal policymaking, and mandates that the Director of the White House Office of Science and Technology Policy review across the federal government the effectiveness of scientific-integrity policies. The second Executive Order re-establishes the President’s Council of Advisors on Science and Technology Policy to advise President Biden on policies that affects science, technology and innovation.

The January 27th Executive Orders build upon a trio of Executive Orders President Biden signed on his first day in office. As part of these “day one” actions, Biden directed the US to rejoin the Paris Agreement, commenced federal agencies to review major environmental rules promulgated during the President Trump administration, and cancelled the Presidential Permit for the Keystone XL pipeline, among other actions.

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