

The Next Things to Fix

Actions the Biden administration can take to
protect our environment



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Actions the Biden administration can take to protect our environment

In his first two years in office, President Joe Biden secured historic levels of funding to tackle environmental challenges, from climate change to lead in drinking water. Following the November 2022 election, congressional opportunities will be much slimmer, but protecting the environment remains as pressing as ever. We're still a long way from securing a stable climate. Air pollution still causes [hundreds of thousands](#) of premature deaths every year and contributes to health problems ranging from asthma to dementia. Our wetlands, streams and forests are still threatened by logging and development, and many Trump-era environmental rollbacks remain on the books.

In December 2020, Environment America Research & Policy Center and U.S. PIRG Education Fund released a report, [First Things to Fix](#), identifying 20 actions the Biden administration could set in motion on day one or soon after to protect the environment. The organizations evaluated progress [100 days](#) and [a year](#) into Biden's first term.

Two years in, our new report finds there are still numerous actions President Biden should take to address America's greatest environmental problems.

Of our initial list of 20 priority actions, only 4 are done. All but one of the others are in progress, but many we rated "nearly done" in January 2022 remain in limbo today, and some protections are newly at risk. The Biden administration has made the most progress undoing rollbacks related to climate change and air pollution, while many opportunities remain for action on clean water and conservation.

Below we document progress restoring environmental protections outlined in the original *First Things to Fix* report and additional steps needed.

The next things to fix

Original “day one” priorities	Status
Rejoin Paris climate accord	Done
Strengthen fuel economy and emissions standards	Done
Restore smart energy efficiency policy	In progress
Repeal the Dirty Water Rule	Progress at risk
Withdraw from Trump’s offshore drilling plan	Progress at risk

Additional environmental priorities

Action	Status
Restore protections for the Northeast Canyons and Seamounts Marine National Monument	Done
Support ratification of the Kigali Amendment to the Montreal Protocols to phase out the use of hydrofluorocarbons	Done
Update regulations to control methane emissions	Nearly done
Restore the Roadless Rule for Alaska’s Tongass Forest	Nearly done
Get the lead out of drinking water	In progress
Reverse the Toxic Water Rule	In progress
Strengthen National Ambient Air Quality Standard (NAAQS) for Ozone and Particulate Matter	In progress
Protect endangered species	In progress
Strengthen the Mercury and Air Toxics Standards	In progress
Reduce pollution from industrial flares	In progress
Reinstate the transportation greenhouse gas emissions reduction performance standard	In progress

Stop oil and gas leasing in the Arctic National Wildlife Refuge	Progress at risk
Cancel the U.S. Environmental Protection Agency (EPA)'s plan to allow unlined coal ash ponds to continue operating	Progress at risk
Strengthen National Environmental Policy Act (NEPA) regulations	Progress at risk
Support ratification of the Basel Amendment to regulate international waste trade	Not yet begun

“Day one” actions in progress or at risk

Restore smart energy efficiency policy: In progress

In April 2022, the U.S. Department of Energy (DOE) [finalized two rules for lightbulbs](#) to increase the efficiency of lightbulbs of at least 45 lumens per watt, which includes LED bulbs. The DOE has also proposed new efficiency standards for [distribution transformers](#), [clothes dryers](#), [home furnaces](#), [room air conditioners](#), [pool pump motors](#) and [heaters](#), and [commercial water heaters](#).

In 2018, the nation wasted [two thirds](#) of the energy that it consumed. But the American Council for an Energy-Efficient Economy (ACEEE) estimates that we can reduce our overall energy usage by 40 to 60 percent below current levels by midcentury, simply by using better technologies and eliminating waste across our economy. Reducing energy use creates big savings—for our planet, our climate and our health. As an added bonus, reducing energy consumption results in lower energy bills.

Next steps: All of these proposed appliance efficiency standards are still pending. The Biden administration should finalize them as quickly as possible so that Americans can save energy and money while reducing pollution. The Biden administration should also consider initiating new standards for [water heaters](#), [commercial fans](#), [refrigerators and freezers and other appliances](#) where improvements in technology could deliver energy savings.

Repeal the Dirty Water Rule: Progress at risk

In August 2021, a federal court in Arizona [vacated](#) the Dirty Water Rule, which means that while many wetlands and streams are no longer categorically excluded from

protections under the Clean Water Act, they are not guaranteed those protections either. Three months later, EPA and the Army Corps of Engineers [announced](#) their intent to replace the Dirty Water Rule with a revised definition of Waters of the United States (WOTUS), the phrase which determines which waterways are protected by the Clean Water Act. However, the agencies' efforts to restore the Act's protections to many wetlands could be undermined by a forthcoming Supreme Court decision in [Sackett v. Environmental Protection Agency](#).

Next steps: The comment period for the WOTUS definition revision ended on February 7, 2022, but the EPA and Army Corps of Engineers have yet to finalize a replacement for the Dirty Water Rule that permanently protects our waterways. Given the strong legal and scientific basis for protecting wetlands and streams under the Clean Water Act, the Biden administration should not wait for the Supreme Court's decision in *Sackett*; they should restore federal protections for our waterways as soon as possible.

Withdraw from Trump's offshore drilling plan: Progress at risk

Despite the danger the action poses to our ocean habitats and wildlife, in January 2018, the Trump administration proposed opening nearly all U.S. waters to offshore drilling, representing a drastic expansion of oil drilling and gas leasing in the Atlantic, Pacific and Arctic oceans, as well as the Gulf of Mexico. In July 2022, President Biden [announced](#) his proposal for up to 11 offshore drilling lease sales—10 in the Gulf and one in Alaska's Cook Inlet. While this proposal will not expand drilling to new coasts, it would lock in offshore oil drilling for years, if not decades. The Inflation Reduction Act passed by Congress in August also mandates some lease sales and requires large offshore oil and gas lease sales to be offered before any new offshore wind lease sales. The mandatory lease sales would occur before Biden's new plan takes effect.

Next steps: President Biden should stop the expansion of offshore drilling by finalizing an offshore drilling proposal that includes no new leases.

Status and next steps for actions nearly done or in progress

Update regulations to control methane emissions

In 2021, President Biden [signed](#) a Resolution of Disapproval invalidating the Trump administration's 2020 Methane Rescission Rule and reinstated two important

Obama-era methane emissions rules. That same year, the EPA proposed an [ambitious rule](#) to regulate methane emissions.

Next steps: The comment period for the EPA methane emissions rule ended on January 31, 2022. The Biden administration should move expeditiously to finalize the rule and stop methane waste.

Restore the Roadless Rule for Alaska's Tongass Forest

In November 2021, the U.S. Department of Agriculture (USDA) [began](#) the rulemaking process to restore the Roadless Rule for Alaska's Tongass National Forest. The U.S. Forest Service has temporarily suspended all road building activities in the Tongass during the rulemaking process.

Next steps: The comment period for the [USDA rule](#) ended on January 24, 2022. The Biden administration should this month fully restore protections to the Tongass.

Get the lead out of drinking water

President Biden set a bold goal of [replacing all lead service lines within 10 years](#). The administration has made progress in winning funding from Congress but EPA has yet to issue the stronger regulations needed to stop lead contamination of drinking water. The bipartisan Infrastructure Investment and Jobs Act (IIJA), signed into law in November 2021, contains \$15 billion for lead pipe replacement and \$200 million for schools to address lead contamination of water. More recently, the EPA [issued guidance](#) to help communities locate lead pipes and announced [\\$30 million in grants](#) to reduce lead in drinking water in schools and disadvantaged communities.

Next steps: Funding alone will not ensure removal of lead pipes. EPA should require water utilities to fully replace all lead service lines and exercise its full existing authority to stop the [widespread lead contamination of schools' drinking water](#) as part of its long overdue update to the [Lead and Copper Rule](#).

In addition, EPA should update the distribution formula for lead removal grants via the Drinking Water State Revolving Fund to reflect the lead pipe replacement needs of each state.

Reverse the Toxic Water Rule

Coal-burning power plants release significant amounts of heavy metals and other toxic substances into our nation's waters. The Trump administration's Toxic Water Rule weakened limits on that toxic pollution. The EPA [issued](#) a notice of proposed rulemaking in August 2021 and the agency stated that it expects to [publish its proposed replacement rule in Fall 2022](#).

Next steps: The EPA should stick to its timeline of a proposed replacement for the Toxic Water Rule in Fall 2022, and that replacement should be as strong as possible.

Strengthen National Ambient Air Quality Standard (NAAQS) for Ozone and Particulate Matter

EPA's proposed rule on particulate matter (soot) pollution has been pending for [nearly 90 days](#) with the Office of Information and Regulatory Affairs. In October 2021, the agency also [announced](#) that they will reconsider the previous administration's decision to retain 2015 ozone standards but have not yet issued a proposal. The EPA expects to finalize both NAAQS rules in 2023.

Next steps: The Biden administration should immediately release its proposed rule on soot pollution, one of the [deadliest forms](#) of air pollution. The EPA should stick to its proposed timeline for ozone regulations and make both rules as strong as possible to keep our air clean and save lives.

Protect Endangered Species

In [June](#) and [July 2022](#), the Biden administration rescinded a pair of Trump-era regulations that significantly weakened the Fish and Wildlife Service's (FWS) ability to designate areas as critical habitat for threatened and endangered species. The FWS and the National Oceanic and Atmospheric Administration are working towards [further revisions](#) to Endangered Species Act (ESA) rules that are expected to be completed by May 2024.

Next steps: Endangered Species Act protections must be fully restored or put in place for gray wolves, monarch butterflies, Doll's daisy, manatees and any other species that merit protection according to the science. Additionally, revisions to ESA rules should strengthen protections for species that are threatened or endangered.

Strengthen the Mercury and Air Toxics Standards

In May 2021, EPA Administrator Michael Regan introduced a rule that brought an end to the Trump administration's cost/benefit rule. In February 2022, the EPA [proposed](#) a rule to revoke the 2020 reconsideration of the finding underpinning the Obama-era Mercury and Air Toxics Standards, which heavily weakened the standards.

Next steps: The EPA needs to act swiftly in strengthening the Mercury and Air Toxics Standards, which would save up to [11,000 lives](#) each year from premature death by limiting mercury and other toxic emissions from power plants.

Reduce pollution from industrial flares

In August 2022, the [EPA signed](#) two consent decrees requiring it to consider updates to toxic air standards for industrial flares, which have not been updated in 26 years.

Next steps: The consent decrees require the EPA to finalize a proposed rule updating the standards by March 31, 2023. A proposed rule for updating marine tank loading operations flares is due by December 19, 2025. The Biden administration should aim to exceed the deadlines set by the consent decrees to reduce these major sources of GHG pollution as soon as possible.

Reinstate the transportation greenhouse gas emissions reduction performance standard

In July 2022, the Federal Highway Administration (FHA) [proposed](#) a rule to require states and municipalities to track and reduce greenhouse gas (GHG) emissions from surface transportation. The comment period ended on October 13, 2022.

Next steps: The FHA must publish a strong final rule, which is all the more urgent as states begin spending huge sums from the infrastructure law that could help or hinder efforts to stop climate change.

Progress at risk: Protections threatened or halted by the courts, Congress or the Biden administration

Stop oil and gas leasing in the Arctic National Wildlife Refuge

On his first day in office, President Biden placed a temporary moratorium on all federal activities related to the implementation of the Coastal Plain Oil and Gas Leasing Program and [suspended](#) drilling leases the following June. Since then, oil companies have [abandoned](#) leases in the Refuge and nearby areas of the Arctic, but current law still [requires](#) a new lease sale of at least 400,000 acres to be held before December 2027.

Next steps: To permanently stop oil and gas leasing in the Arctic refuge, Congress needs to pass legislation that ends the leasing program.

Cancel the EPA's plan to allow unlined coal ash ponds to continue operating

The EPA [announced](#) on January 11, 2022 that it was taking several steps to protect communities from coal ash contamination and to hold coal ash facilities accountable for controlling and cleaning up coal ash contamination. The EPA's regulations already required most of the coal ash facilities to begin closure by April 2021, but more than 50 facilities requested extensions which EPA is considering. And according to a [lawsuit](#) filed by Earthjustice in August 2022, EPA exempted 300 coal ash dumps which contain at least half a billion tons of ash.

Next steps: EPA's actions are already requiring more than 400 unlined coal ash pond to shut down, which will benefit many waterways. The agency should reject extensions, undue exemptions and ensure all coal ash facilities shut down on schedule.

Strengthen NEPA regulations

On his first day in office, President Biden issued an [executive order](#) instructing the White House Council on Environmental Quality (CEQ) to rescind NEPA rollbacks and take climate change into account. In April 2022, the CEQ [reinstated](#) three NEPA provisions, including the requirement that all federal agencies evaluate all relevant environmental impacts during environmental review. But months later, Senators Joe Manchin and Chuck Schumer struck a deal to pursue changes to permitting for energy projects, including pipelines, in exchange for passage of climate investments. President Biden has expressed support for the deal.

Next steps: President Biden should withdraw his support for legislation weakening NEPA and instead continue to strengthen environmental review.

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