

Action Items for a Post-Trump Administration

I. Public Lands

A. Federal Land Preservation

Restore National Monument diminishments.

Restore diminishment of other federal land designations, such as lands designated as part of the National Lands Conservation System.

Restore Arctic National Wildlife Refuge protections from oil and gas development.

B. Federal Fiscal Responsibility

Increase grazing fees (just reduced, even though the prior fees were below market rate).

Impose federal royalty rates that reflect fair market value for federal oil and gas and coal on federal and Indian lands.

Restore methane control and anti-waste rules (for both DOI and EPA).

C. Federal Land Ownership and Planning

Claim federal ownership of groundwater on federal lands (like ownership of oil & gas); issue regulations controlling hydraulic fracturing with federal groundwater.

Investigate what the CRA forbids in terms of revised BLM planning regulations.

Restore executive orders on consideration of climate impacts in federal property, real estate, etc. actions.

D. Federal Leasing

Restore Master Leasing.

Don't lease in a declining a declining market.

Restore principle that leases of sensitive lands are improper if there are available less damaging alternatives.

Evaluate the "downstream effects" of leasing of fossil fuels on climate change.

E. Wildlife Protection on Federal Lands

Restore sage grouse protections that were included in the 2015 RMP amendments.

Increase the species listed as “species of conservation concern” in Forest Plan revisions occurring under the 2012 NFMA regulations.

Emphasize protection of bighorn sheep where there is risk of contact between a bighorn population and domestic sheep grazing on federal land.

Stop the border wall, which threatens nearly 100 endangered and threatened species and would destroy large swaths of national monuments, wildlife refuges, and tribal lands. The Dept. of Interior has jurisdiction over about 39 percent of the entire U.S.-Mexico border (nearly 177 miles of the border in Arizona).

Reinstate Interior’s rule that banned certain predator hunting practices in Alaska’s national wildlife refuges, including killing wolves and pups in their dens, shooting bears from aircraft and at bait stations, and using steel-jaw leg-hold traps. The Obama/Jewell rule was an early victim of the Congressional Review Act, which the president signed in March 2017.

F. Biodiversity

Reverse the MBTA interpretation under the new Solicitor’s Opinion and go back to interpreting the law as covering unintentional take of migratory birds; FWS should also develop a permitting scheme that allows for incidental take of migratory birds -- but requires steps to minimize and mitigate this incidental take.

Phase out use of lead ammunition on all federal land.

Reverse efforts to weaken or abandon federal commitments to protecting sage grouse and their habitat; the federal government should once again play a leadership role in protecting sage grouse on federal land, and should encourage the states to implement their sage grouse conservation commitments.

Abandon (or reverse) efforts to overturn FWS’ “blanket 4(d) rule under the ESA; species listed as threatened should presumptively enjoy the same protections under Section 9 as species listed as endangered; FWS should have to justify special 4(d) rules as necessary to advance recovery of threatened species.

The Department of Interior should restore its compensatory mitigation policy adopted under the Obama Administration; this policy emphasizes avoidance of adverse effects, as well as compensatory mitigation to reach a "no net adverse impact" goal.

F. NEPA

Restore the mitigation guidance DOI has eliminated.

Deemphasize categorical exclusions and BLM's determinations of NEPA Adequacy (DNAs) that agencies use to avoid NEPA procedures.

Promulgate a federal cost-of-carbon rule (to avoid NEPA violations).

Revise Council on Environmental Quality regulations to reflect the last 40 years of NEPA decisions to codify the above measures and others; much more emphasis on the content and process of EAs and the circumstances under which categorical exclusions are suitable.

Restore CEQ NEPA guidance on climate change impacts.

II. Pollution Law (in general)

Undo whatever the Trump EPA does that restricts EPA's ability to use legitimate science as a basis for its regulatory decisions

Withdraw Pruitt "sue and settle" policy

Revisit the issue of the what levels of penalties states must be able to impose in order to maintain their authorization status under the pollution control programs. As EPA's penalty authorities have risen pursuant to the Federal Civil Penalties Inflation Adjustment Act, the states' authorities have nowhere near kept pace.

III. Clean Air Act

Revive and strengthen the Clean Power Plan and new source standards.

Utilize Clean Air Act Section 115 to create greenhouse gas control plans covering all major emitting sectors.

Regulate short-lived climate forcers through CAA (e.g., stringent controls on black carbon; encourage states to enact HFC limits through SIPs) or develop template for states to act using police powers.

Reinstate the 2015 ozone NAAQS, if the Pruitt EPA weakens it.

Eliminate the “10-year lookback” under New Source Review.

Reinstate the “once in, always in” policy under the NESHAPs program.

Revisit how EPA should analyze updating MACT standards to take advantage of the combined dynamics of § 112(d)(3) and (d)(6), which should lead to a near-automatic updating of existing source standards every eight years.

Revisit how EPA should deal with the residual risk issue for air toxics under § 112(f)(2)(A).

Reinstate the Mercury and Air Toxics Standards for power plants.

Reexamine whatever weakening the Pruitt EPA generates in the Regional Haze program.

IV. Clean Water Act

Redefine the “waters of the United States” based purely on science, as under the 2014 proposed rule.

Restore EPA’s effluent limitation guidelines for toxic discharges from power plants.

Promulgate TMDL regulations consistent with the principles EPA applied in the Chesapeake Bay case, requiring (1) deadlines by which the TMDLs will result in compliance with the relevant water quality standards, and (2) a showing of “reasonable assurance” that the relevant states have regulatory systems in place to implement the TMDLs by the relevant deadlines.

Reconsider the Water Transfer Rule.

Set a schedule for revisiting technology-based standards for high-priority categories of industrial dischargers.

Establish a policy of completing ESA consultations *before* approving state water quality standards.

Update the aquatic life criteria methodology that is used in developing water quality standards.

V. Resource Conservation and Recovery Act

Revisit the Definition of Solid Waste rule to respond to the D.C. Circuit's opinion in the *American Petroleum Institute* case.

Implement the methane standards for solid waste landfills.

Revise the Coal Ash Disposal rule to be at least as strict as the version promulgated in 2014.

VI. Transportation

Restore fuel economy standards if they are rolled back.

Improve CAFE standards.

Strengthen passenger vehicle emissions standards; either grant California waiver or adopt California standards.

Strengthen emission standards for heavy-duty vehicles and engines.

Invest in retrofitting diesel trucks and buses.

Regulate black carbon from vehicles and vessels.

Reaffirm or restore California waiver if it's revoked.

Adopt a zero emissions vehicle mandate federally (like the California program).

Increase public transit funding.

Readopt and strengthen the Clean Power Plan and new source standards.

VII. Electricity / Power

Revive the Clean Power Plan.

Employ Clean Air Act Section 115 to create greenhouse gas control plans covering all major emitting sectors.

Reimpose moratoria on coal, oil and gas leasing on federal lands and offshore areas.

Reimpose and strengthen controls on methane leakage.

Encourage massive program of construction of utility-scale wind and solar, and associated transmission and storage.

VIII. International

Confirm US commitment to participate in the Paris Agreement.

Confirm US commitment to meeting its NDC.

Restore and then increase funding for the Green Climate Fund (US committed \$3 billion, only \$1 billion of which the US has paid).

IX. Other

Restore references to climate change in federal documents.