

# Climate Change

in the

# Biden Administration

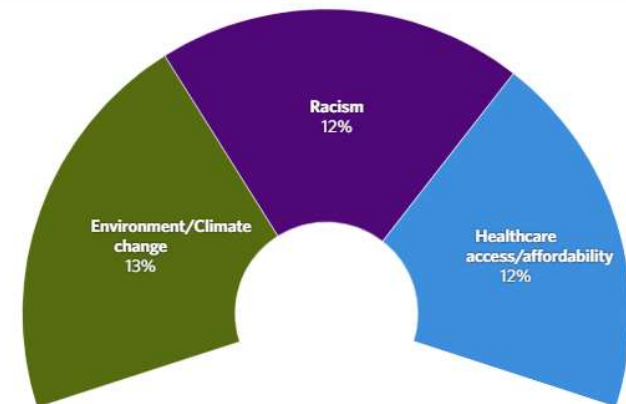
Rich Gold  
Holland & Knight LLP  
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# Toto, I've a Feeling We're Not in 2008 Anymore

- Attitudes about climate are shifting across the political spectrum
- Climate is a top issue among younger voters in both parties
- Climate-oriented federal policy will be here to stay, even after the Biden Administration

## 2020 Top Voting Issues – Voters Aged 18-29

All Youth Asian Youth Black Youth Latino Youth White Youth



Only top three issues included; not to scale and will not add up to 100%

**CIRCLE** Tufts University Tisch College - CIRCLE

Source: CIRCLE/Tisch College 2020 Pre-Election Youth Poll

[Get the data](#)

# An Inconvenient Truth

- Climate policy under the Biden Administration will extend well beyond EPA through the whole of government
- Additional tactics to watch:
  - Climate-related risk disclosure requirements and other pending recommendations from the Financial Stability Oversight Council (FSOC), as directed by May 20 Executive Order on Climate-Related Financial Risk
    - May include actions from SEC, CFTC and Federal Reserve
  - DOD and other government procurement efforts
  - Climate considerations in trade policy, including trade agreements
- Emphasis on transparency, corporate disclosure, and science-based targets means industry will need to “walk the walk” on sustainability to have a seat at the table

# Political Landscape

# Lay of the Land Through 2022

- Climate and environmental justice will be a signature, cross-jurisdictional focus for this Congress and Administration
- Democrats will push to do as much as possible before 2022 elections, but success is uncertain
- Smallest congressional margins in recent political memory give power to moderates
  - Narrowly united government will temper climate ambitions and legislative action
  - 50/50 Democratic margins in the Senate makes Joe Manchin the most important Member of Congress for legislative possibilities
- Many returning faces from the Obama Administration in central roles
  - Top-down executive branch leadership from White House on climate issues
  - While many Department heads are new to Washington, Deputy-level officials are not

# Biden Climate Team: Departments and Agencies



Secretary of Interior

Deb Haaland



Secretary of Energy

Jennifer Granholm



Administrator of the Environmental Protection Agency

Michael Regan



Secretary of Labor

Marty Walsh



Securities and Exchange Commission

Gary Gensler



Chair, National Labor Relations Board

Lauren McFerran



Secretary of the Treasury

Janet Yellen



Acting Director, Commodity Futures Trading Commission

Rostin Behnam

# Biden Climate Team: White House



Domestic Climate Policy Advisor

Gina McCarthy



Special Climate Envoy

John Kerry



Deputy Domestic Climate Policy Advisor

Ali Zaidi



Director, National Economic Council

Brian Deese



Chair, Council on Environmental Quality

Brenda Mallory

Director, Office of Management and Budget

TBD


# Policy and Pathways



# The Democratic Pillars of “Sustainability”

- These six foundational themes will be incorporated across *all* federal policy – from environmental regulation to corporate finance to trade policy
- All economic sectors will be affected – but fossil-based industries will be hit particularly fast and hard
- These policy tenets will shape the way businesses function from the ground up

# What's to Come in the Executive Branch



Executive Action	<ul style="list-style-type: none"><li>• Next steps on supply chain/ Buy American</li><li>• Federal plan on climate financial risk</li><li>• 30x30 conservation initiative</li></ul>
Regulation	<ul style="list-style-type: none"><li>• Replacements for Trump-era environmental regulations, including the ACE Rule for power plants</li><li>• Usual gamut of environmental/ permitting targets</li><li>• Clean Energy Standard?</li></ul>
Procurement	<ul style="list-style-type: none"><li>• Similar to approach under Obama Administration</li><li>• Procurement will leverage the buying power of the federal government to send powerful signals to investment markets, especially for renewables</li></ul>

# Another Brick in the Wall, Pt. 1: The Financial Sector

- Maximizing profits out, corporate citizenship/ESG in
- Executive Order issued in May directs federal government to create a plan within 120 days to extend the asset/investment analysis of climate risk to the financial sector – intention is to squeeze capital markets.
- Mandated corporate climate risk disclosure is in the pipeline at SEC
  - SEC moving subregulatory changes to interpretation of SEC guidance
  - Administration will likely look for more durable ways to codify interpretation changes, including additional rulemakings
- Additional oversight initiatives actions across the financial sector include:
  - Federal Reserve to include climate-related risks in its oversight
  - Dedicated SEC task force to focus on climate-related compliance and misconduct
  - Protections for shareholders' rights to file resolutions
  - CFTC establishing a Climate Risk Unit to focus on financial derivatives role in pricing climate-related hazards
- Divestment movement likely to gain steam

# Another Brick in the Wall, Pt. 2: Clean Energy Standard

- Clean Energy Standard (CES) in development
- EPA working on an administrative approach under existing authority, though still very uncertain that authority exists
- Several competing proposals in Congress, but the vehicle is uncertain
  - Senate Democrats are developing a sector-by-sector approach that would be regulated by EPA
    - EPW Committee is leading, but ENR Committee would have a piece of the pie
  - House proposals would implement through DOE
    - Democrats' CLEAN Future Act includes a proposal targeting net-zero for the power sector by 2035
    - Bipartisan McKinley/Schrader proposal targets 80% reduction by 2050, focuses on investment in CCUS
    - Industry-supported DeGette proposal targets net-zero by 2050, includes CCUS and money for economic transition for fossil fuel energy workers

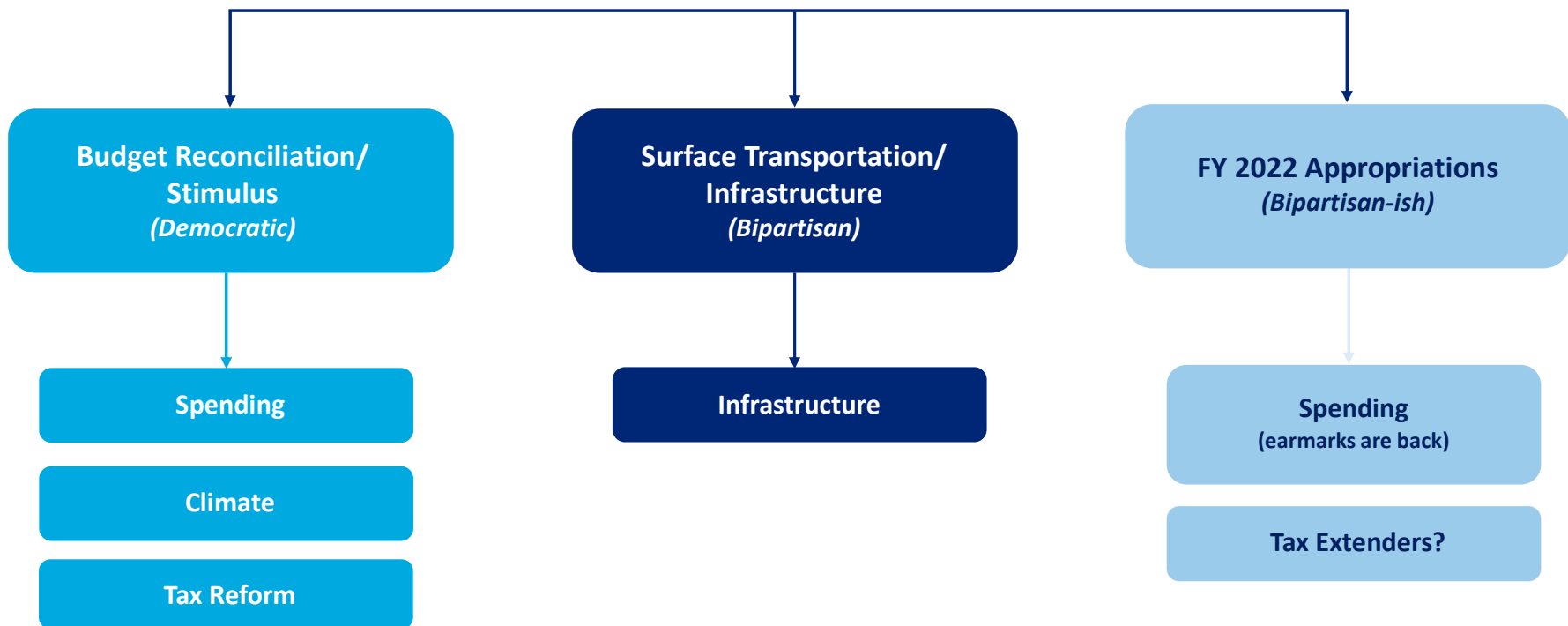
# Opportunities for Bipartisan Cooperation

1. Promotion of domestic energy resources
2. Carbon capture, utilization, and storage
3. U.S. supply chain, including manufacturing and batteries
4. Workforce development, labor priorities, and economic transition

These areas can create offensive opportunities where incentives including direct spending, tax credits, and more are possible.

# What's to Come on Legislation

*Not all of these will cross the finish line in 2021*



# Final Thoughts

- Near-term focus on ESG will pay off in the long-term, both financially and in reputation enhancement
  - For now, the focus will be innovation, investment, transparency, transition, and voluntary action
  - These are all stepping stones for stronger mandates
- The Biden Administration sees economy and sustainability as positive-sum, not zero-sum
  - Policy will swing left of center, but there will be deliberation and stakeholder engagement
  - There are meaningful opportunities for U.S. economic leadership and bipartisan cooperation
- Re-shoring presents major opportunity
  - Interest in domestic supply chain affords opportunities and potential for strange bedfellows
  - Opportunities to negotiate on economic transition for fossil fuel industry and workers exist now, may not in the future

Thank You

Holland & Knight