

Biden’s Regulatory “Modernization” Continues Whole-of-Government Pursuit of Coercive Progressivism

The 2022 edition of *Ten Thousand Commandments* extensively surveyed the Biden administration’s executive actions, rules, and memoranda that reversed the Trump regulatory policy and attenuated the Office of Management and Budget (OMB) regulatory watchdog role.¹⁴ It also called attention to Biden’s activist whole-of-government replacement of constitutional norms with progressive social and economic regulatory transformations. The most prominent of these are the unequal treatment of citizens based on ethnicity, group membership, and background with an equity agenda;¹⁵ and the imposition of a climate crisis agenda via extraordinary nationwide economic and financial controls.¹⁶ Add to these a series of monopolistic economic interventions under a contradictory “competition policy” rubric.¹⁷

This whole-of-government cartelization of agencies and agendas continues to expand

at the administration’s midpoint. Whole-of-government machinery already regulates long COVID,¹⁸ digital currency,¹⁹ “super-pollutants,”²⁰ a national whole-of-society campaign on mental health,²¹ and expanded welfare programs in the name of addressing “food insecurity.”²² Whole-of-government initiatives target new sectors, as with Biden’s Executive Order 14081, “Advancing Biotechnology and Biomanufacturing Innovation for a Sustainable, Safe, and Secure American Bioeconomy.” This new venture seeks to “coordinate a whole-of-government approach to advance biotechnology and biomanufacturing towards innovative solutions in health, climate change, energy, food security, agriculture, supply chain resilience, and national and economic security.”²³

Biden’s interventions initially surveyed last year are encapsulated in Box 1. It is clear that today’s federal government is incapable of leaving anything or anyone alone. These

Box 1. Some of Biden’s Initial Escalations of Federal Economic and Social Controls

- Repudiation of the Trump regulatory streamlining agenda and erosion of legacy regulatory oversight, including removal of new infrastructure for public disclosure of guidance documents
- Whole-of-government equity: spending, regulatory redistributions, and subregulatory guidance to advance an equity agenda characterized by widespread differential treatment based on group membership, imposed with the significant heft the federal government has attained in procurement and contracting
- Whole-of-government climate and environmental activism at an economy-transforming scale, threatening basic energy access and livelihoods
- Whole-of-government competition policy, consisting of antitrust and other central government interventions from agriculture to high tech
- Industrial policy and distortionary infrastructure spending and subsidies with regulatory effect; these range from routine infrastructure to large-scale projects like nationwide vehicle charging stations, not merely regulating but replacing the private economy while imposing union labor
- Mandates rationalized by COVID-19 that burden businesses and households and suppress the voicing of dissenting opinions on private online platforms and escalation of surveillance

new developments are enabled by the federal government's increasingly dominant role as an employer; its extraordinary procurement heft (Washington boasts of being the largest purchaser of goods and services on earth²⁴); its contracting immensity (accompanied by costly union-labor mandates); and its expansive use of emergency powers.²⁵

Biden's escalations have been aided by rapid-fire crisis legislation costing trillions of dollars. The American Rescue Plan²⁶ was followed by a bipartisan infrastructure package²⁷ and the Inflation Reduction Act. Together, these were the largest "climate investments" ever made by government.²⁸

The bipartisan CHIPS and Science Act legislation, purportedly addressing competition with China, also includes diversity grants and civil rights programs.²⁹ "All of those pieces of legislation that are now law had what—we believe equity [is] at the center of it," White House spokesperson Karine Jean-Pierre offered in November 2022.³⁰

Future economic crises and societal discord are being baked in by the progressive transformation of the constitutional order. When these policies fail, the failures will trigger cries for still more regulation. This action will continue indefinitely without steps to prevent crisis exploitation.³¹ The remainder of this section surveys some notable ostensibly COVID-related Biden policies and pursuits of 2022 and sounds the alarm over their implications.

Aggravating and Prolonging Post-Pandemic Price Inflation and Supply Disruptions

For Biden, economic relief consists of top-down transformations of the energy economy and expansion of access to government spending programs.

The Unified Agenda—whereby Biden extends government investments to "cut the

costs of child care and health care [and] help families pay for other essentials"—will worsen inflation.³² This report finds Biden furthering pandemic-rooted test runs for the universal basic income³³ by such means as Medicaid expansion into housing, food, and furniture welfare payments.³⁴

Bureaucracy and regulation can cause shortages and supply-chain disruptions and raise prices.³⁵ This administration instead blames other countries, railroads, and oil companies that are threatened with penalties for their "record-setting profits"³⁶ and "war profiteering."³⁷ Biden takes credit for price dips, however.³⁸

Electoral concerns forced occasional admissions of failure.³⁹ These included (a) a \$6 billion bailout of aged nuclear power plants,⁴⁰ (b) a failed urging of Saudi Arabia to delay cuts in oil production,⁴¹ (c) a license for Chevron to resume oil shipments from Venezuela to the United States,⁴² (d) a proposed gas tax holiday,⁴³ and (e) the spectacle of drawdown of the strategic petroleum reserve (some of which was sold overseas⁴⁴). These steps attempted to correct for self-inflicted, artificial crises and handicaps.⁴⁵

Draft White House talking points called the Organization of Petroleum Exporting Countries' cuts a "total disaster" that could be taken as a "hostile act,"⁴⁶ but those observations apply more fittingly to U.S. supply restrictions. Biden, whose own National Environmental Policy Act revisions may impede infrastructure development,⁴⁷ remarked, "When it comes to the gas prices, we're going through an incredible transition." Transportation Secretary Pete Buttigieg stated in a 2022 congressional hearing, "The more pain we are all experiencing from the high price of gas, the more benefit there is for those who can access electric vehicles."⁴⁸

Industrial policy and a shift away from federalism and local decision making in 2022 have increased the nation's vulnerability to new crises and supply disruptions. The United States received aid packages of powdered baby formula from other nations

because legacy regulations had suppressed domestic competition.⁴⁹ Biden's reaction to the baby formula shortage was yet more Defense Production Act emergency powers, this time via a memorandum handing new authorities to the Department of Health and Human Services, plus Food and Drug Administration (FDA) guidance on WIC (Special Supplemental Nutrition Program for Women, Infants, and Children) waivers and increased access to government programs.⁵⁰ The White House could not simply say "yes" when asked whether a relaxation of baby formula imports could be made permanent, an act mirrored in Biden's retention of aluminum tariffs.⁵¹

American farmers had to battle a resistant Secretary of Agriculture Thomas Vilsack to release certain "prime" farmland from the Conservation Reserve Program⁵² to enable spring crop planting.⁵³ As the Competitive Enterprise Institute's Ben Lieberman noted, the Environmental Protection Agency's (EPA) emergency waiver allowing diversion of corn for 15 percent ethanol blends (for the few who could take advantage during the summer) could potentially aggravate food price inflation.⁵⁴

Biden did have a few minor regulatory liberalizations, like allowing hearing aids to be sold over the counter. The Treasury Department issued a report promoting competition, deregulation, and the reduction of excise taxes that impede competition in the alcohol industry.⁵⁵ Seat sizes on airliners may escape increased regulation.⁵⁶

Many promising regulatory developments petered out, however. Biden's Trucking Action Plan, with its "cutting red-tape in Commercial Driver's licensing," and increased Department of Labor-registered apprenticeship provisions are less deregulation than they are partial concessions to protect federal authority,⁵⁷ as other trucking and energy regulations are on the rise. The Federal Motor Carrier Safety Administration sought comment on the "extent to which motor carriers currently rely on the emergency declaration to deliver certain commodities and whether

there has been any impact on safety."⁵⁸ Likewise, telehealth leniency is subject to lapse.⁵⁹ Catch-up regulatory relaxation in response to gas prices, such as a Jones Act waiver to ease shipping restrictions,⁶⁰ may not prove permanent.

Other moves are at cross-purposes, such as reducing rent to build wind and solar generation on public lands⁶¹ while curtailing fossil-fuel extraction on public lands.⁶²

The Environmental Justice and Climate Crisis Cross-Agency Push

EPA is pushing new rules on particulate matter, power plant mercury, and other toxic emission rules,⁶³ some of which are reactions to Trump liberalizations.

The Council on Environmental Quality has guidance on carbon capture regulations,⁶⁴ while the Interior Department is undertaking rulemakings on methane leaks, venting and flaring affecting fossil-fuel operations on public lands, and greenhouse gas emissions for power plants. The administration eyes some of these for completion before a potential Republican president and Congress could use the Congressional Review Act to overturn them in 2025.⁶⁵

In Biden's inaugural call for "tackling the climate crisis at home and abroad," the president instructed agencies to

prioritize action on climate change in their policy-making and budget processes, in their contracting and procurement, and in their engagement with State, local, Tribal, and territorial governments; workers and communities; and leaders across all the sectors of our economy.⁶⁶

Reinforcement of this message appears in Biden's "Roadmap to Build a Climate-Resilient Economy,"⁶⁷ as well as in Equity Action Plans from more than 90 agencies.⁶⁸ In the wake of the Inflation Reduction Act,

EPA is allocating hundreds of billions in green energy spending,⁶⁹ and in November 2022 sought public input on allocating another \$13 billion released by the legislation to fight the climate crisis and advance environmental justice.

EPA also reports on stronger enforcement of “environmental violations with disproportionate impact on underserved communities.”⁷⁰ The White House Council on Environmental Quality is developing and seeking feedback on a Climate and Economic Justice Screening Tool that agencies will use in “implementation of the Justice40 Initiative goal of directing benefits of certain federal investments to disadvantaged communities,”⁷¹ and it has appointed a senior director for environmental justice to coordinate across government.⁷²

Attorney General Merrick B. Garland launched a “first-ever Office of Environmental Justice to oversee and help guide the Justice Department’s wide-ranging environmental justice efforts.”⁷³ The Department of Health and Human Services is pursuing an Environmental Justice Strategy and Implementation Plan.⁷⁴

Equity and Climate Requirements for Private Industry

Outside the environmental sphere, the Treasury Department and other agencies host various meetings on Biden’s equity pursuits.⁷⁵ The Office of Personnel Management in October 2022 “convened the first meeting of the Chief Diversity Officers Executive Council” in an administration that sees it as a model for imposing diversity, equity, and inclusion (DEI) policies across society, not solely in government.⁷⁶ Accordingly, corporations like Citibank and Amazon are on board with environmental justice and racial equity audits,⁷⁷ while the entire ESG agenda is pushed by leading investment funds.⁷⁸ Businesses are writing prophylactic self-regulation like racial and gender diversity quotas into credit agreements with banks.⁷⁹

The Federal Reserve has launched a seminar series on “Inclusive Recovery.”⁸⁰

Financial regulations are advancing climate and equity goals. The Employee Benefits Security Administration (EBSA) at the Department of Labor in 2021 advised pension fund managers that “climate change and other ESG factors are often material and . . . in many instances fiduciaries should consider climate change and other ESG factors in the assessment of investment risks and returns,”⁸¹ and it has now released its final rule.⁸²

EBSA’s ambitions continue in a “request for information” soliciting public input on the agency’s future work “to protect the life savings and pensions of U.S. workers and families from the threats of climate-related financial risk.”⁸³ EBSA is working with entities such as Treasury’s Financial Stability Oversight Council that share authority to extend the limits of the Employee Retirement Income Security Act.⁸⁴ Treasury Secretary Janet Yellen called for “redoubl[ing] our efforts to decarbonize our economies” via a “whole of economy” approach.⁸⁵

Though technically independent of the White House’s agenda, the Federal Reserve touts “climate change and financial stability” custodianship of the banking system,⁸⁶ and “climate scenario analysis” to steer capital away from fossil energy.⁸⁷ Although Federal Reserve Chair Jerome Powel claimed, “We are not, and will not be, a ‘climate policymaker,’”⁸⁸ staffers who will outlast him are on standing formal committees and pilot programs devoted to the cause.⁸⁹

On tap from the putatively independent Securities and Exchange Commission are standardized disclosures and target meetings on greenhouse gas emissions, energy use, and alleged exposure to climate-related risks.⁹⁰ From the Federal Deposit Insurance Corporation, one sees a “Statement of Principles for Climate-Related Financial Risk Management for Large Financial Institutions.”⁹¹ Such incursions are costly. They threaten sectors like small farms and ranches⁹² and put millions of retirees’ investments at risk.⁹³

Other avenues of advancing the green agenda are well under way. The Department of Energy’s energy efficiency standards for federal buildings and standards for the nation’s public school infrastructure are a given in this setting.⁹⁴ Contractors for the Defense Department, General Services Administration, and NASA must now meet climate targets,⁹⁵ even as these same bodies issued rules to raise the hourly minimum wage paid to federal contractors;⁹⁶ undertake “pay equity and transparency”;⁹⁷ and require that “small business contracting procedures, e.g., set-asides, [must] apply to overseas procurements.”⁹⁸

State transportation departments and cities must measure and meet Federal Highway Administration targets, because “extreme weather due to climate change threatens the safety and mobility of Americans and challenges the stability of supply chains.”⁹⁹

Prominent senators in the president’s party are demanding that he declare a climate emergency and push through even more regulations on that basis.¹⁰⁰ The White House’s actions reviewed here are not far from that position.

Caution: Federal Control of Payment Systems to Further the Whole-of-Government Regulatory Agenda

The Treasury Department under Janet Yellen intends to regulate cryptocurrency.¹⁰¹ Biden has endorsed the Federal Reserve Racial and Economic Equity Act, which would enlist cryptocurrencies in service of regulatory pursuits.¹⁰² The legislation, which passed the House in the 117th Congress, would “add additional demographic reporting requirements” and “modify the goals of the Federal Reserve System” by requiring the Fed’s Board of Governors and the Federal Open Market Committee to “exercise all duties and functions in a manner that fosters the elimination of disparities across racial and ethnic groups

with respect to employment, income, wealth, and access to affordable credit.”

Even the White House Office of Science and Technology Policy (while pursuing “sustainable chemistry”¹⁰³) is mobilizing on cryptocurrencies¹⁰⁴ in the wake of Biden’s March 2022 Executive Order 14067, “Ensuring Responsible Development of Digital Assets.” Biden’s order purports

to reduce the risks that digital assets could pose to consumers, investors, and business protections; financial stability and financial system integrity; combating and preventing crime and illicit finance; national security; the ability to exercise human rights; financial inclusion and equity; and climate change and pollution.¹⁰⁵

Policymakers should recognize that tighter control of payment systems can help implement much of Biden’s whole-of-government planning on climate, equity, and medical and social welfare tracking. The pressures brought to bear via digital payment systems can be extraordinary. These Biden efforts share a kinship with Obama-era “Operation Choke Point” maneuvers to cut off financial services to certain industries deemed distasteful by those in power.¹⁰⁶

Censorship and Misinformation Debates in the Context of the Intolerant Regulatory State

Last year’s *Ten Thousand Commandments* touched on censorship and “misinformation” debates that the 118th Congress is now exploring. Recent developments include the “Twitter files” on tech and government collusion on censoring social media and the surgeon general’s high-profile call on Big Tech to turn over COVID-19 misinformation data, including the sources of those data, to the government.¹⁰⁷ Normal rights of dissent and redress of grievances against

an overweening regulatory state are being threatened.

In 2022, Biden's National Science Foundation paid out, largely to universities, nearly \$39 million in government grants and contracts to combat "misinformation" and viral "populist ideas."¹⁰⁸ His Department of Health and Human Services and the Centers for Disease Control and Prevention paid screenwriters, comedians, and other influencers to mock the unvaccinated.¹⁰⁹ In 2022, the United States Postal Inspection Service, which houses an Internet Covert Operations Program, conducted blanket keyword social media searches for terms like "protest," "attack," and "destroy."¹¹⁰

Biden's Department of Homeland Security (DHS) repeatedly warns of "the proliferation

of false or misleading narratives, which sow discord or undermine public trust in U.S. government institutions."¹¹¹ Other leaked documents outline an even broader policing effort by DHS.¹¹² Even nonbelievers might be concerned that the Federal Bureau of Investigation in 2023 is circulating internal memos warning of "radical traditionalist Catholic ideology."¹¹³

The Internal Revenue Service (IRS) in 2022 deleted a job posting seeking applicants willing to "use deadly force."¹¹⁴ The deletion may be a comfort to some, but the IRS is also adding 80,000 to the personnel roster. The IRS has been unfriendly toward anonymity in the use of cryptocurrency, and it seeks to require facial scans to access tax returns online, as well as mandatory reporting of all small-dollar transactions.¹¹⁵