In September 2017, Eric Biber and I published a threat assessment after the first 200 days of the Trump Administration. For those who have buried their memories of that time, those were days of shock and despair about the future of environmental protection (and much else). It seems time to bring our report up to date. Where were we right or wrong? And what does this says about Biden's prospects?

The 2017 report was organized at the tool that Trump could use, rather than specific policy questions. I'll follow the same organization today. I should note that we only discussed domestic policy, not foreign affairs moves such as exiting the Paris Agreement.

Legislation.

The 2017 threat assessment. Eric and I considered substantive legislative changes very unlikely although potentially very damaging.

How things played out. The one significant legislative hit was a provision in Trump's tax cut law for opening up ANWR for drilling. In the final days of the Trump Administration, Congress actually passed a constructive law requiring EPA to cut emissions of HFCs, a potent greenhouse gas.

Prospects for Biden. New legislation could be highly beneficial but seems very unlikely. The one possible exception would be a national energy standard adopted as part of a budget reconciliation bill on infrastructure.

Budget.

The 2017 threat assessment. We viewed this as a likely method of undermining environmental protection.

How things played out. The Trump Administration sought radical cuts in budgets for environmental protection. Fortunately, Congress never went along, even under Republican control. Spending on energy research remained especially popular in Congress. One thing we missed, however, was the ability of the Trump Administration to use personnel policies to weaken agencies like EPA.

Prospects for Biden. At least in the next two years, the slim Democratic control of Congress should be enough to expand the budgets of EPA and other agencies. Biden hopefully we will be able to restore agency morale and build up staffing. More broadly, there seems to be a reasonable chance of major spending on infrastructure

such as expansion of the electrical transmission system and charging stations for electric vehicles.

Pollution and Climate Change.

The 2017 threat assessment. We pointed out that regulatory rollbacks would be harder to achieve than some Trump administration officials seemed to think because of the need to comply with rulemaking procedures and assemble sufficiently strong justifications to survive judicial review.

How things played out. We were right about the barriers to rapid regulatory action but underestimated just how much havoc could be wreaked by anti-regulatory zealots. The ferocious scope and number of rollbacks exceeded our expectations. The Trump Administration tended to cut corners in order to move quickly, which turned out to hurt them in court.

Prospects for Biden. The Biden Administration is working hard to undo the rollbacks and has already done so in some cases. Agencies will also be looking to move aggressively beyond Obama-era regulations. One thing we didn't foresee in 2017 was Trump's success in packing the lower courts and Supreme Court, which will increase Biden's difficulties.

Enforcement.

The 2017 threat assessment. Lack of government enforcement is impossible for courts to police. We viewed this as an area where Trump could do very serious damage to environmental protection.

How things played out. We were right. Environmental enforcement essentially collapsed under Trump. Citizen suits were only able to pick up part of the slack.

Prospects for Biden. Just as it was easy for Trump to slash enforcement efforts, it will be easy for Biden to give them the greenlight. This should be a major priority for the Administration.

Public Lands.

The 2017 threat assessment. We noted that a lot depended on what statutes applied to particular tracts of public land, but that the executive branch does have discretion in land management.

How things played out. As expected, the Trump Administration made a major push to open public lands to development, particularly by the fossil fuels industry. In its haste to do so, it tended to be sloppy about required documentation such as environmental impact statements or studies of impacts on endangered species. This sloppiness often led to successful litigation stalled actions until the end of Trump's term.

Prospects for Biden. Biden is working to cancel the Trump Administration's efforts. In terms of creating new restrictions on development, Biden can also profit from the discretion that the executive branch has over public lands. Given today's more conservative judiciary, the courts may be less amenable than in the past to new restrictions on the use of public lands.

Executive Orders.

The 2017 threat assessment. Many executive orders are just instructions to agencies lacking any direct legal effect. For that reason, we considered the threat level from the executive orders themselves to be small.

How things played out. We were largely correct. The exceptions were Trump's effort to shrink some national monuments, slashing estimates of the social cost of carbon, imposition of tariffs on solar panels, and approval of the XL oil pipeline.

Prospects for Biden. There's a symmetry here. Biden's executive orders also often take the form of instructions to agencies that have no direct legal effect. Biden has been unwinding Trump's important executive orders. He will also be limited, however, in how much he can accomplish directly of his own agenda by executive orders.

State and Local Action.

The 2017 threat assessment. This was the one area where we saw favorable prospects. We viewed actions by state and local governments as the best available way of making environmental progress during the Trump years.

How things played out. State and local efforts exceeded expectations, particularly after Democrats gained governorships and state legislative seats in the midterms. One thing we didn't anticipate was the extent to which many states controlled by Republicans would take steps to expand the use of renewable energy.

Prospects for Biden. If anything, Blue states seem to be accelerating their efforts, and Red states are mostly still responding to market pressures to expand use of renewables. If Biden can find ways to strengthen and promote these state efforts, he may be able to accomplish a lot, offering the opportunity to go beyond what the federal government can feasibly do directly.

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Overall, I think we did pretty well. We underestimated the ferocity of Trump's rollback effort but also the extent of environmental progress at the state level. Congress pushed back more than we expected against budget cuts.

Now, it's time to look forward. Biden should find it easiest to make progress in unleashing environmental enforcement. He has good prospects of congressional support on the budgetary front, but how far Congress will be willing to go remains to be seen. Given the sloppiness of the Trump Administration's rollbacks, the Biden Administration should have a great deal of success in canceling them. Aggressive new regulatory actions will require careful management and will have to survive the judicial gauntlet. Much will depend on Biden's skills and those of his appointees.