Overview of President Obama’s Climate Action Plan

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September 10, 2013
DARKNESS

AND SEA MONSTERS
October 4, 2013
• TCEQ plans to propose draft rules for regulating GHG emissions.

September 20, 2013
• EPA to announce draft rules for controlling GHG emissions from new power plants.
§382.05102. Permitting Authority of Commission; Greenhouse Gas Emissions

A) In this section, “greenhouse gas emissions” means emissions of:

1. Carbon dioxide;
2. Methane
3. Nitrous oxide;
4. Hydrofluorocarbons;
5. Perfluorocarbons; and

B) To the extent that greenhouse gas emissions require authorization under federal law, the commission may authorize greenhouse gas emissions in a manner consistent with Section 382.051.
C) The commission shall:
1. Adopt rules to implement this section, including rules specifying the procedures to transition to review by the commission any applications pending with the United States Environmental Protection Agency for approval under 40 C.F.R. Section 52.2305; and
2. Prepare and submit appropriate federal program revisions to the United States Environmental Protection agency for approval.

D) The permit processes authorized by this section are not subject to the requirements relating to a contested case hearing under this chapter, Chapter 5, Water Code, or Subchapters C-G, Chapter 2001, Government Code.
E) If authorization to emit greenhouse gas emissions is no longer required under federal law, the commission shall:

1. Repeal the rules adopted under Subsection (C); and

2. Prepare and submit appropriate federal program revisions to the United States Environmental Protection Agency for approval.

Credit(s)

Added by Acts 2013, 83rd Leg., ch. 272 (H.B. 788), § 2, eff. June 14, 2013
October 4, 2013

• Draft rules will be filed with Chief Clerk’s office
• Consideration of draft rules will be placed on the Agenda for October 23, 2013 Agenda Meeting of Commissioners
October 23, 2013 Agenda Meeting

- Proposed rules published in Texas Register for comment

- Set for adoption perhaps in late March 2014
Climate Action Plan
• 2012
  – Warmest year on record in contiguous United States
  – 356 Record High Temperatures Tied or Broken
  – 15th Driest Year on Record
– Wildfires Burned > 9.3 Million Acres

– One-third of the population experienced 100° temperatures

– Precipitation 2.57 inches below the 20th Century average

– Asthma rates have doubled in past 30 years
• Climate/Weather Disasters Cost > $100 Billion
  – $30 Billion Drought/Heatwave
  – $65 Billion Superstorm Sandy
  – $11.1 Billion Severe Weather
  – $2.3 Billion Hurricane Isaac
  – $1 Billion Western Wildfires
Global temperature for the past 29 full years has been undershooting the IPCC’s currently-predicted warming rates (pink region). The warming trend (thick red line) has been rising at well below half of the IPCC’s central estimate. Data source: SPP1 index, compiled from HadCRU13, RSS, and UAH.

IPCC predictions have been exaggerated
Climate scientist Paul Knappenberger found that, by the end of the century, the United States will be responsible for less than two-tenths of a degree centigrade of the nearly three degrees of global warming that alarmists expect to occur.
March 2013

Congressman Joe Barton said no cap and trade or carbon tax legislation would pass the Republican controlled House.

Climate change legislation now extremely difficult, if not impossible to pass.
“Everybody is waiting for action, the one thing the president really needs to do now is to begin the process of shutting down the conventional coal plants. Politically, the White House is hesitant to say they’re having a war on coal. On the other hand, a war on coal is exactly what’s needed.”

Daniel P. Schrag
White House Climate Advisor
On June 25th, 2013, three years after Congress killed a cap-and-trade bill, President Obama introduced a 21-page Climate Action Plan designed to crack down on greenhouse gas (“GHG”) emissions.
“We don’t have time for a meeting of the Flat Earth Society.”
Obama said during his presentation at Georgetown University, “Power plants can still dump unlimited amounts of carbon pollution into the air for free. That’s not right, it’s not safe, and it needs to stop.”
To protect the planet, Obama said his plan “begins with cutting carbon pollution by changing the way we use energy – using less dirty energy, using more clean energy, wasting less energy throughout our economy.”
Within an hour of completing his speech, Obama issued a Presidential Memorandum to the head of the U.S. Environmental Protection Agency directing that carbon emissions from power plants be regulated. The regulation of new power plants must be formally proposed by September 2013, while the regulation for existing power plants must be proposed by June 2014.
January 29, 2000
Memorandum for the President

You have asked our opinion whether there is any substantive legal difference between an executive order and a presidential directive. As this Office has consistently advised, it is our opinion that there is no substantive difference in the legal effectiveness of an executive order and a presidential directive that is not styled as an executive order. We are further of the opinion that a presidential directive would not automatically lapse upon a change of administration; as with an executive order, unless otherwise specified, a presidential directive would remain effective until subsequent presidential action is taken.

Randolph D. Moss
Acting Assistant Attorney General
EPA chief Gina McCarthy said she’s done waiting for Congress, and that the agency would bypass the legislative branch if necessary.
Three Primary Goals of CAP

• 17% reduction in 2005 carbon emissions by 2020
  – Fossil fueled power plants
  – Increasing fuel economy standards for heavy-duty trucks, buses, and vans
• Prepare the United States for the Impacts of Climate Change
  – Develop guidance for incorporating climate change and extreme weather event considerations into coastal highway projects
  – Boosting the resilience of buildings and infrastructures
• Lead international efforts to address global climate change
  – Enhance multilateral engagement with major economies
  – Reduce GHG emissions from deforestation, agriculture, and other land uses
Obama’s blueprint includes just about everything from hydrofluorocarbon emissions and forest growth to hospitals and military installations. It would create a new bureaucracy and launch subprograms such as the National Drought Resilience Partnership and the Climate Data Initiative. Its complexity is not unlike the Congress-rejected cap-and-trade and ObamaCare to come.
Additional Initiatives and Goals

• Directs DOI to permit enough renewables projects – like wind and solar – on public lands by 2020 to power more than 6 million homes;

• Sets a new goal to install 100 megawatts of renewables on federally assisted housing by 2020;
• Maintains the commitment to deploy renewables on military installations;

• Expands the President’s Better Building Challenge, focusing on helping commercial, industrial, and multi-family buildings cut waste and become at least 20 percent more energy efficient by 2020;
• Seeks to reduce pollution caused by “potent” greenhouse gases known as hydrofluorocarbons;
• Directs agencies to develop a comprehensive methane strategy;
• and commits to protect our forests and critical landscapes.
• Directs agencies to support local climate-resilient investment by removing barriers or counterproductive policies and modernizing programs; and establishes a short-term task force of state, local, and tribal officials to advise on key actions the Federal government can take to help strengthen communities on the ground;

• Pilots innovative strategies in the Hurricane Sandy-affected region to strengthen communities against future extreme weather and other climate impacts; and building on a new, consistent flood risk reduction standard established for the Sandy-affected region, agencies will update flood-risk reduction standards for all federally funded projects;
• Launches an effort to create sustainable and resilient hospitals in the face of climate change through a public-private partnership with the healthcare industry;

• Maintains agricultural productivity by delivering tailored, science-based knowledge to farmers, ranchers, and landowners; and helps communities prepare for drought and wildfire by launching a National Drought Resilience Partnership and by expanding and prioritizing forest- and rangeland- restoration efforts to make areas less vulnerable to catastrophic fire;
• Provides climate preparedness tools and information needed by state, local, and private-sector leaders through a centralized “toolkit” and a new Climate Data Initiative;

• New efficiency standards for appliances and federal buildings to reduce carbon pollution by at least 3 billion metric tons by 2030;
• Building and upgrading gas pipelines to reduce methane emissions and enhance economic productivity;
• Establishes goal that federal government will consume 20% of its electricity from renewable sources by 2020;
• Elimination of fossil fuel tax subsidies in 2014 budget;
• Makes up to $8 billion in loan guarantees available for a wide array of advanced fossil energy and efficiency projects to support investments in innovative technologies.
• It is clear that reining in carbon emission from power plants is the signature item of CAP.

• Except for mandating carbon emission standards for fossil fueled power plants, there is little substance and few timelines contained in CAP.
“U.S. Energy Sector Vulnerabilities to Climate Change and Extreme Weather
U.S.D.O.E., July 2013

• Relevant Climate Trends
  – Increasing air and water temperatures
  – Decreasing water availability in some regions and seasons
  – Increasing intensity and frequency of storm events, flooding and sea level rise
Oil and Gas Production
• Decreasing water availability given volumes required for
  – Enhanced oil recovery
  – Hydraulic fracturing
  – Refining
What to do:

- Improve technologies to reduce freshwater use
- Improve technologies for enhanced shale gas recovery such as dry fracturing processes
Guess at Regulations

• April 2012, EPA proposed NSPS for GHG emissions from new fossil fuel-fired power plants.

• The proposed standard would have required power plants larger than 25 megawatt-electric (MWe) to achieve an emission rate of 1,000 pounds of CO$_2$ per megawatt-hour, averaged over 30 years.
• 1,000 pounds of CO$_2$ per megawatt-hour is the rate achieved by some power plants also using natural gas.

• Coal-fired plants currently emit about 1,800 pounds of CO$_2$ per megawatt-hour.
• EPA’s 2012 proposal assumed that carbon capture and sequestration technology will be technically and economically feasible for commercial use within 10 years.

• Also assumed that with CCS technology coal-fired plants could reduce CO$_2$ emissions to 600 pounds of CO$_2$ per megawatt-hour.
• If CCS technology is installed immediately once available, CO2 emissions would average 1,000 pounds per megawatt-hour: 10 years at 1,800 pounds per megawatt-hour and 20 years at 600 pounds per megawatt hour.

• EPA received in excess of 2.7 million comments, and no final rule was issued.
• After public comment it was thought that EPA may not have finalized the rule because of various legal risks, one of which was treating coal and gas-fired utilities the same.
Timeline

• September 20, 2013: EPA to issue carbon emission standards for new fossil fuel-fired power plants

• June 1, 2014: EPA to issue carbon emission standards for modified, reconstructed, and existing power plants
Timeline

• June 1, 2015: EPA to issue final standards for modified, reconstructed, and existing power plants
• June 30, 2016: deadline for states to submit required state-specific performance standards
Potential Delays

• Litigation in which the EPA’s rules may be stayed or invalidated by the D.C. Circuit
• Political pressures leading up to the 2014 midterm and 2016 presidential elections
September 18, 2013

- Republican leaders of the House Energy and Commerce Committee holding hearing asking Obama Administration to testify about Climate Action Plan
Invited testimony from:

– EPA
– The departments of Agriculture, Defense, Energy, Health and Human Services, Interior, State, and Transportation
– NASA

Only the Defense Department has confirmed it will provide a witness.
President Obama’s Climate Action Plan, unveiled in June, has drawn biting criticism from Republicans, led by Senate Minority Leader Mitch McConnell of Kentucky, who blasted it as a “war on coal” and a “war on jobs.”
Criticisms of Climate Action Plan

1. Higher energy bills.
2. Lost jobs.
3. Higher natural gas prices would stomp the manufacturing renaissance.
4. No impact on climate change.
5. Ambiguous on Keystone XL Pipeline.
6. No admission of temperatures leveling off and wrong predictions.
7. Efficiency mandates drive up prices, drive away choice.
8. Subsidies for inefficient renewables but not for oil and gas exploration.
9. Pretending China and the developing world will cut emissions.
According to EPA data, total American greenhouse gas emissions have only risen one percent since 2005. Meanwhile, levels in China, India, and Russia have combined to rise more than six percent. China is now the world’s largest producer of CO$_2$ and India third.
Current EPA regulations are already closing coal-fueled power plants at an alarming rate – which New Mexico Public Regulations Commissioner Pat Lyons calls “the real energy crisis that no one is talking about.” He told me: “The biggest issue facing utilities is the closure of 300 coal-fueled power plants. This represents tens of thousands of jobs in the coal mining industry and billions of dollars of revenues for local, state and federal government.”
• While shuttering coal-fueled power plants, the Climate Action Plan calls for more “clean energy” which will “cut our dependence on foreign oil.”

• Imported foreign oil is for the transportation fleet. It does not, with very few exceptions, produce electricity.
Some in Republican-leaning, energy-producing states contend that any set of EPA rules controlling greenhouse-gas emissions will include provisions that directly or indirectly, impose some form of national energy tax.
Time is of the Essence

• President Obama will need to have final EPA rules in place no later than 60 days before he leaves office

• Under the Congressional Review Act, those in Senate who oppose these rules can pass a nullification resolution
“What this administration does to the coal industry is what they intend to try and do with refining – distort markets by forcing artificial price signals and fostering reliance on technologies that are nascent at best,” Brown said. “Further, the legal precedents that the White House will try and set with these new rules promises good times ahead only for Clean Air Act litigators.” Stephen Brown, Vice President of Federal Government Affairs for Tesoro
“But I do want to be clear: Allowing the Keystone pipeline to be built requires a finding that doing so would be in our nation’s interest. And our national interest will be served only if this project does not significantly exacerbate the problem of carbon pollution.”
Senators demand Obama approve delayed Keystone XL pipeline
August 29, 2013

U.S. State Department’s final environmental impact analysis of the Keystone pipeline is not expected until 2014.
THE TAR SANDS PIPELINE BOOM

Industry has announced the intention to build more than 10,000 miles of pipelines at a cost of almost $40 billion over the next five years to send an additional 3.1 million barrels a day of crude oil from Canada's oil sands to global markets.

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<th>Pipeline</th>
<th>Cost (billions)</th>
<th>Length (miles)</th>
<th>Capacity (maximum)</th>
<th>Projected Start Date</th>
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Totals: 38.446 billion dollars, 10,708 miles, 3,130,000 barrels per day

*Project under consideration  **Additional new export capacity only

Illustration by Catherine Mann

April 2012
August 21, 2013

• TransCanada reported its 700,000 barrel per day Gulf Coast pipeline project is over 90% complete.
• The line is expected to be in service by the end of 2013.
“Fail: How the Keystone XL Tar Sands Pipeline Flunks the Climate Test”

- August 29, 2013
- Sierra Club
- Oil Change International
- 13 other partner groups
• Estimated the pipeline would be responsible for 181 million metric tons of carbon pollution each year

• Pollution equivalent of adding 37.7 million cars or 51 new coal-fired power plants
Ross’ Geese
Black-footed ferret
Sandhill cranes
Least tern and chick
Piping plover
Sprague’s pipit
Pallid sturgeons