

What's Next?

Energy and the environment in President Obama's second term

By Chris Prandoni, James M. Taylor, Jeff Stier, Christine Harbin, and James Inhofe

Summary: *Re-elected and ineligible to run again, President Obama is in a position occupied previously by only five Presidents. He is as independent of the people's will as any President can be. In the coming years, will he continue his first-term course on energy and the environment, or take the country down a new path? Green Watch asked some top policy analysts for their take on the second term.*

Obama policy: Scarce and expensive energy

By Chris Prandoni

With Republicans controlling the House and having a substantial minority in the Senate, most of the action on energy and environment issues in the coming months will occur behind the scenes in regulatory agencies. After Congress rejected the proposed cap-and-trade system during summer 2009, President Obama unleashed the Environmental Protection Agency (EPA) and the Department of the Interior to achieve what Congress rejected—making energy more scarce and more expensive.

Under President Obama, agencies are systematically misinterpreting arcane laws to seize power that Congress never bestowed. Hiding behind convoluted rulemakings written in barely comprehensible legalese, the Obama administration is on the verge of fundamentally changing how Americans consume energy.

Seeking to phase out coal-fired electricity generation and inhibit the development of America's natural resources, obscure federal agencies are playing a huge role in



The election has given President Obama four more years to “transform” the country on energy and environmental issues. What will he do?

determining what types of energy you consume, and at what cost. Here are just three of the EPA regulations that will seriously harm the American economy:

1. **Utility Maximum Achievable Control Technology (U-MACT):** The Utility MACT rule requires coal-fired power plants to comply with onerous efficiency standards. Facing costs of tens of millions of dollars to retrofit each coal power plant, managers of many such facilities have decided it is cheaper to close the doors than to comply with the U-MACT. Unnecessarily closing coal plants not only kills jobs, it also raises the cost of electricity for consumers. Data from National Research Associates finds that U-MACT “will cost 180,000-215,000 jobs by 2015” and “with other new EPA regulations on the power

sector, the economy stands to lose approximately 1.65 million jobs by 2020.”

2. **Ozone Rule:** The EPA is required to set National Ambient Air Quality Standards (NAAQS), which basically determine the allowable amount of certain pollutants over a given area. This sounds reasonable—pollution, after all, is bad—but

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the Obama Administration is considering setting the NAAQS so low that almost no energy-intensive industry can comply with the rule. By the EPA's own estimates, the ozone standard the agency is considering would cost \$90 billion a year; other studies project costs upwards of a trillion dollars and the destruction of more than seven million jobs. No one really knows how much damage the final rule will do to our already struggling economy, except that the price will be high.

3. Greenhouse Gas Standards (GHG) for new fossil-fuel plants: The EPA's 2012 rule requires new fossil-fuel plants to achieve emissions standards that only natural gas power plants can meet, effectively banning construction of new coal-fired power plants. This hurts not only the hundreds of thousands of Americans directly and indirectly employed by the coal industry, but also the tens of millions of Americans who enjoy the affordable and reliable energy produced by coal-fired power plants.

There are two ways to overturn the above rules, both of which will be attempted in 2013. Lawyers from affected parties—consumers, industry, etc.—can and will sue the EPA, charging accurately that the EPA has overstepped its authority. At that point, a judge might throw out some EPA rules. Unfortunately, judges rarely do this.

The other route leads through Congress. Congress can pass legislation overturning rules, or it can employ the Congressional

Review Act (CRA). The CRA allows Congress to overturn a rulemaking if a majority of the Senate and House vote to do so. CRA action is more likely than legislation, because it requires only 51 votes in the Senate to overturn such regulations, while legislation normally requires 60 Senate votes to overcome a filibuster. Still, a vote this year to use CRA against the U-MACT rule failed. As for the ozone rule and the new GHG rule for coal-fired power plants, using CRA will be difficult but may be represent the only opportunity to block these destructive regulations.

Department of the Interior inhibiting development of oil and natural gas

One of the first presidential actions taken by Barack Obama, on February 4, 2009, was to withdraw 77 expected oil and natural gas lease sales in Utah, which at least postponed some 3,000 jobs. Soon after, the Department of the Interior released its five-year offshore lease plan, which prohibited drilling on the Atlantic and Pacific coasts and part of the Gulf of Mexico.

With much of the nation's oil and natural gas reserves under federal land, Americans are at the mercy of the Department of the Interior, which decides whether to allow development of these resources. We've heard much talk lately about a resurgence in American oil and natural gas production, but nearly all of that development has occurred on private and state lands.

President Obama has inhibited oil production when he can. Consider two indicators of how difficult it is, under this administration, for oil and gas producers to develop natural resources that happen to be on federal lands: Approved Applications for Permits to Drill are down 36% since Obama took office, and oil and natural gas production on federal lands was down 14% last year.

A Wood Mackenzie study found that full development of America's oil and natural gas reserves would likely create 460,000 jobs by 2020 and 530,000 jobs by 2025. Given the state of the economy—with unemployment in the 7-8% range and, it seems, improving only because of people leaving the workforce, along with a sputter-

ing rate of economic growth—will American job creators be allowed to develop oil and natural gas reserves on federal land?

In the second Obama term expect that question to be answered not in the halls of Congress, but in the EPA and the Department of the Interior and the White House. The administration—which never has to face voters again—will work to the best of its ability to keep such matters out of the hands of the people's representatives in Congress.

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Punitive environmental policies likely in Obama's second term

By James M. Taylor

Now that President Barack Obama has secured a second term in office and will not face voters again, he has more political freedom to pursue the energy and environment programs in which he truly believes. The question is, will the President continue to pursue extremist environmental policies that needlessly punish our economy while delivering few environmental benefits—or will he instead embrace a form of environmental activism that at least takes into account the costs and benefits of government policies?

The President will give us a good indication in January when, if things go as planned, he will issue a final decision on the Keystone XL pipeline.

President Obama frustrated our Canadian allies earlier this year when he blocked, at least temporarily, construction of the pipeline that would deliver plentiful quantities of oil from Canada. His decision thrilled activists who call themselves enemies of "Big Oil," but any environmental benefits are dubious. Canada is not going to reduce its oil production as a result of President Obama's Keystone XL decision; it will merely sell its oil elsewhere. So, even if you believe that the production and consumption of oil is somehow bad, you'll have a hard time finding an environmental reason for blocking the pipeline.

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Moreover, the Keystone XL pipeline adds little to the overall environmental footprint of oil pipelines, as tens of thousands of miles of oil pipelines already safely deliver oil throughout the United States. Allowing construction of the Keystone XL pipeline, using the most up-to-date environmental technologies and having a negligible impact on overall U.S. oil pipeline miles, would have little or no environmental impact.

In other words, blocking the Keystone XL pipeline accomplishes nothing even from the perspective of run-of-the-mill environmental extremist groups. Only environmental fanatics opposed the Keystone XL pipeline. Thus, Obama's final decision in January will show us whether he will spend his second term in the company of run-of-the-mill environmental extremists or outright fanatics.

With regard to environmental policy in the second Obama term, "mainstream extremism," one might say, is the best one can hope for. Obama, who famously declared that his election heralded an end to the rise of the oceans, chose to expend his political capital in 2009 targeting "global warming" through the Waxman-Markey Cap-and-Trade bill, which barely passed the House, then under Democratic control, and died in the Democrat-controlled Senate. In 2013, the President will be blocked at the legislative level, thanks to Republican control of the House, and he will turn to bureaucratic rulemaking to pursue his agenda.

House Republican leaders are paying attention. They sent a letter December 13 to EPA Administrator Lisa Jackson, questioning the EPA's rulemaking process and seeking more transparency on a costly planned rule that would regulate fine particulate matter. "As you know, Members of the Science, Space, and Technology Committee have repeatedly requested release of the scientific data that EPA uses to justify alleged benefits of this rule (as well as the majority of EPA's Clean Air Act benefit claims for non-PM2.5 rules)," the lawmakers wrote. ("Non-PM 2.5" refers to particles larger in diameter than approximately 1/10,000th of an inch.) "Multiple senior Obama Administration officials have promised to ensure release

of this data, but have yet to fulfill such commitments, raising further questions regarding the seriousness of the President's repeated statements that he is operating 'the most open and transparent Administration in history.'"

Obama's second-term agenda also includes new restrictions on carbon dioxide emissions from power plants, "fracking" restrictions on federal lands, and more stringent ozone restrictions. Cumulatively, these looming restrictions could cost the U.S. economy \$100 billion per year.

The Obama administration justifies these punitive restrictions by claiming fantastically unrealistic economic benefits will flow from environmental regulations. EPA, for example, cherry-picks health and mortality data to claim environmental restrictions prolong American lives. Yet even the cherry-picked data indicate new EPA restrictions add, at most, a few hours to the average American life span. To justify the huge costs associated with such minimal asserted health benefits, EPA claims each life extended through EPA regulations

provides \$9.1 million in economic benefits. Considering the average American worker earns \$44,000 per year (\$1.76 million when extrapolated over a 40-year working span), it is difficult to ascertain how a few extra hours of life, even if we accept EPA's cherry-picked data, creates \$9.1 million in economic benefits per person.

In his second term, President Obama would be wise to spend more time and money addressing real environmental challenges rather than faux environmental challenges. Invasive species containment would be a good start. Shifting more resources and authority to the individual states, which are best able to determine and address local and regional environmental challenges, would also provide substantial real-world environmental benefit.

Time will tell just how far down the path of environmental extremism President Obama will travel in his second term. We should get an indication in January, when he issues a final decision on the Keystone XL pipeline.

James M. Taylor is Senior Fellow for Environment Policy at The Heartland Institute.

Skyrocketing energy prices and \$8-a-gallon gas

Unless you follow politics closely, you may find it hard to believe that the Obama administration would pursue a deliberate policy of making energy scarcer and more expensive, or that officials would see these changes as way to reach the President's goal of "fundamentally transforming the United States of America." But sometimes you have to take politicians at their word.

- ▶ During the 2008 campaign, then-Senator Obama told the San Francisco Chronicle that, under his cap-and-trade plan, "If somebody wants to build a coal-fired power plant, they can. It's just that it will bankrupt them." He added, "Under my plan . . . electricity rates would necessarily skyrocket."
- ▶ "Somehow we have to figure out how to boost the price of gasoline to the levels in Europe," said Steven Chu in September 2008, at a time when the European price was roughly \$8 a gallon. Soon after making that remark, Chu became the U.S. Secretary of Energy.
- ▶ Van Jones, the administration's first "green jobs czar," declared in February 2009, "Right now we say we want to move from suicidal gray capitalism to something eco-capitalism [sic] where at least we're not fast-tracking the destruction of the whole planet. Will that be enough? No, it won't be enough. We want to go beyond the systems of exploitation and oppression altogether. . . . The green economy will start off as a small subset and we are going to push it and push it and push it until it becomes the engine for transforming the whole society."

Chemical fight offers early look at Obama's second-term EPA

By Jeff Stier

In President Obama's second term, the Environmental Protection Agency will pursue an agenda of more costly and excessive regulation. Much of what EPA does will be out of the public eye—under the radar, so to speak—and much of what the agency does in public will be rooted not in science but in what makes for good sound bites on the nightly news.

To discern the path EPA is poised to take, consider what the agency is doing with regard to waste water. It is preparing to force a broad range of chemical companies to launch an expensive and questionable monitoring program on their waste water treatment sites. The program involves the assessment of alleged environmental risks—not assessment of specific health risks to humans, but broader assessment of dangers, often poorly defined, to the environment in general. The chemicals the EPA wants to test for, known as D4 and D5, are components of siloxanes, the building blocks for silicone products. Siloxanes are ubiquitous, serving unique purposes in products ranging from airplanes to shampoo.

As this is written, it appears that negotiations between EPA and the chemical industry—part of an “enforceable consent agreement” process that started in June 2012—may fail to reach an agreement before the December 27 deadline. Hanging over the negotiations is EPA's threat that, if no agreement is reached, the agency will force a wasteful monitoring regime on the entire industry: a set of restrictions based on models that have failed to match up with real-world data collected and validated by government agencies in both the U.S. and Canada. The chemical industry does not oppose risk assessments or monitoring programs for these chemicals; it asks only that EPA consider environmental exposure information that has been collected independently.

With regard to D5, one of the chemicals at issue, a thorough review by independent

scientists for Environment Canada, an agency known for strict standards, determined that it does not pose a threat to the environment now or in the future. Tests in the U.S. have confirmed this. But that hasn't stopped EPA from going after D5.

Bringing together all the test results would provide all the information necessary to conduct a risk assessment based on a full spectrum of conditions and environments. EPA, however, is insisting on requiring more than three times more monitoring than is scientifically justified. If the sides don't reach agreement, consumers will pay for an unnecessarily costly program, with not a molecule of environmental protection, or better risk assessment, to show for it.

President Obama, in an executive order issued in January 2011, declared, “Our regulatory system must protect public health, welfare, safety and our environment while promoting economic growth, innovation, competitiveness, and job creation. . . . It must be based on the best available science.”

This administration's heavy-handed regulatory style has reached a point at which the issue is not health, the environment, and real science—not even political ideology—but wasteful, ineffective government that fails to use its regulatory powers responsibly.

Jeff Stier is a Senior Fellow at the National Center for Public Policy Research.

What wind subsidies may tell us about the future of “green” subsidies

By Christine Harbin

At this writing (in mid-December), supporters and opponents of federal subsidies for wind energy are out in force on Capitol Hill. The main federal subsidy for wind energy is set to expire at the end of the year, and Congress's decision on wind handouts may foreshadow the fate of the administration's “green” subsidies for well-connected special interests.

The federal government has a consistent track record of making bad bets in the energy market. The first big flop was ethanol. Despite 40 years of government coddling,

ethanol remains woefully dependent on federal blending mandates while it causes higher food prices and actually harms the environment. The next disappointment was the Department of Energy's grants and loan guarantees to “green energy” companies. Many of these boondoggles—including Solyndra, Beacon Power, Ener1, and A123 systems—have gone belly-up, sticking taxpayers with the bill. Others are still in business, enriching a favored few and draining the taxpayers while producing little or no benefit to the public.

A federal subsidy known as the production tax credit (PTC) is of this ilk. The PTC has been around since 1992, and it provides eligible wind power projects with a subsidy of 2.2 cents per kilowatt-hour of electricity. Congress has voted to extend the tax credit six times ever since, usually in one- or two-year intervals. Last August, the Senate Finance Committee passed a measure that would renew and dramatically expand the PTC for one year, alongside several additional targeted tax credits for renewable energy, at a cost of \$12 billion in 2013 alone.

Such special tax treatment has allowed wind turbine makers to plump up their payrolls, but that has come at the expense of taxpayers and has impeded the nation's economic growth. By giving special tax breaks to wind energy, the federal government continues the dubious practice of using the tax code to favor certain groups over others. It stifles experimentation in energy technologies and makes it harder for less-favored groups to compete in the marketplace. Propping up inefficient, unviable industries with subsidies is clearly not a sustainable energy policy in the long term.

Proponents often claim that wind power is an infant industry, saying it needs the PTC to get off the ground. But they overlook the fact that the wind industry has yet to show any signs of independence after 20 years of subsidies. In fact, during a three-year period in which the subsidies were allowed to lapse, industry growth declined by 93%—proof that it isn't viable except when taking advantage of treatment not available to other industries.

What do we have to show for these 20 years of tax breaks for wind power? Not much. Even with its big leg-up from the government, wind accounts for less than 3% of our electricity.

Sometimes people point to the number of jobs in the wind industry as evidence that special treatment creates jobs. And it does, if you look only at jobs created and not jobs that were destroyed or never came into existence in the first place—jobs that don't exist because money was diverted into wind projects. And if a wind turbine manufacturer keeps 100 additional workers on the payroll because it receives a tax credit, those 100 workers cannot work in other areas of the economy. By directing labor and capital away from more efficient uses, wind incentives slow the economy down. Wind power also fails to produce the environmental effects that its supporters claim. Many wind supporters say that the wind subsidy is worth it to “go green” and cut carbon emissions, but wind power doesn't even do that. Turbines don't emit carbon by themselves, but they lead to more carbon output when they're connected to the electrical grid. Wind tends to blow least when the demand for electricity is greatest, so it must be backed up with reliable conventional sources such as coal, natural gas, or nuclear. When those power plants suddenly have to ramp up to backstop flagging wind, their level of efficiency drops dramatically. In short, turning conventional power plants on and off makes them emit more carbon dioxide.

Oops.

Developing new energy technologies is a worthy goal, but the Obama administration's policy of handouts and tax carve-outs isn't getting us there. New energy technologies should show their value in the marketplace by competing for consumers' dollars on a level playing field, not by petitioning Washington for favors. Americans deserve an energy policy that is based on free-market principles, not political favoritism. It's time to end this wasteful program, as a step toward ending “green” cronyism once and for all.

Christine Harbin is a policy analyst for Americans for Prosperity.

Congress must be ready to stop Obama's regulatory barrage **By Senator James Inhofe (R-Okla.)**

With President Obama winning a second term, the administration is back on track to unleash a barrage of job-killing regulations. Many of the most costly and burdensome regulations, especially at the Environmental Protection Agency, were being processed before the election, but voters didn't hear too much about them. That's because the President and his people understood just how unpopular their regulatory agenda would be with the public, if only they knew about it.

So, during the campaign, the administration went to great lengths to keep its agenda under wraps—even violating the law to do so. The President's rhetoric was altered to suggest a love for oil, gas, and coal, and the administration began punting, putting off a series of EPA regulations that, once in effect, would strangle economic growth and put more Americans out of work. The administration concealed its regulatory plans, refusing to publish them as the law requires. National Journal noted that this is “the longest lag between outlooks since the deadline schedule was created in 1994.”

What exactly does this administration have in store in a second term? A few weeks before the election, Carol Browner, President Obama's former global warming czar, promised environmentalists that they'd get what they want in a second term: “I can tell you, having spent two years in the White House with the President, that this is not a fad. The President believes deeply in these issues. At every turn he has looked at what are the tools available to him to really help build a clean energy future for this country and has been committed throughout his first four years in office, and there's no doubt in my mind this will be a big part of his to-do list and he will remain committed in the next four years.”

In the weeks before Election Day, I released a Senate oversight report putting the spotlight on many of these items on this

“to-do list.” I noted the Obama-EPA plan to move full force behind implementing a global warming agenda that Congress has already rejected. Similarly the Obama-EPA has plans to regulate every body of water in the United States, and new ozone regulations will put hundreds of counties in “nonattainment,” essentially placing a construction ban throughout hard-hit regions of the country

I am particularly concerned about the administration's efforts to quash natural gas production. Through no less than 14 federal agencies, including the EPA, the Department of Energy, the Bureau of Land Management, the Centers for Disease Control, the Department of Agriculture, and the Securities and Exchange Commission, the administration is seeking ways to regulate hydraulic fracturing at the federal level, in order to limit and eventually stop the practice altogether.

This regulatory onslaught will hammer hard working American families. These regulations will destroy up to 887,000 jobs per year, hitting coal regions the hardest, according to a report from National Economic Research Associates. Peak year losses in family income in coal country would range up to \$1,600 per household.

It's going to be up to Congress to apply the brakes to a runaway bureaucracy. Republicans in control of the House of Representatives must continue to put the spotlight on the Obama energy agenda and to fight for pro-energy legislation. Senate Republicans, though in the minority, can stand by their House colleagues and find ways to work with some Democrats who have more mainstream views on energy issues. President Obama did not campaign openly and honestly about his plans, and has no mandate to follow policies that will harm the economy catastrophically while providing little or no benefit to the environment.

Senator James Inhofe (R-Okla.) is the outgoing chairman of the Senate Committee on Environment and Public Works.

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Who is “**Richard Windsor**”? Windsor, it appears, is an **Obama administration** official who wants to hide from the American people his—or her—communications via e-mail. You see, “Richard Windsor” is really **EPA Administrator Lisa Jackson**; it’s the name on a secret e-mail account that she used, an account that is the subject of an inquiry by **Representatives Fred Upton** (R-Michigan) and **Cliff Stearns** (R-Florida) and of Freedom of Information Act demands by the **Competitive Enterprise Institute**. The name was revealed when it appeared in an e-mail thread released—oops!—by a left-wing group, the **Center for Progressive Reform**. **Chris Horner** of CEI has reported that the use of secret e-mail accounts was instituted by **Carol Browner**, **Bill Clinton**’s EPA administrator and a former Obama Global Warming Czar. If the secret accounts were used to evade open-government requests and the avoid the attention of internal agency watchdogs, it would constitute a violation of the law. “You remember Ms. Browner,” said Horner, “the lady who suddenly ordered her computer hard drive reformatted and backup tapes erased, hours after a federal court issued a ‘preserve’ order” of which she supposedly was unaware.

Perhaps the secret e-mails will reveal where Jackson gets her weird views about science. For example, she often refers to bureaucrats’ “scientific finding” in support of this policy or that, when, in fact, science takes no position on any political issue. When some members of Congress tried to stop the EPA from implementing strict, job-destroying restrictions on the American people in an effort to limit carbon dioxide—an invisible gas that is harmless to humans and necessary for life on earth—she referred to their efforts as “politicians [making] a law to overrule scientists.” Heaven forbid that laws be made by elected lawmakers, rather than unelected, unaccountable, anonymous bureaucrats—uh, “scientists”!

With about half the undergraduates voting, the **Harvard College Undergraduate Council** voted 72%-28% in favor of divesting the university’s \$31 billion endowment of stocks related to coal, oil, and natural gas. According to **Robert Bryce** of the **Manhattan Institute**, this is part of a divestment campaign by a group called “350.org,” which claims that the safe limit for mankind is 350 parts per million for carbon dioxide in the atmosphere. That limit is approximately 1/2857th of the atmosphere for carbon dioxide, which humans exhale and plants breathe.

Bryce, in a **Wall Street Journal** article on the divestment campaign, noted that “green energy” cannot in any way replace the need for hydrocarbon fuels. Just dealing with the expected increases in electricity demand would require devoting an area the size of North Carolina to wind farms—each year! Alternatively, just to deal with rising demand, the world would have to install, each year, the solar equivalent of 23 Germanys (Germany is the #1 country for solar power).

The **U.S. House** has rejected legislation by **Representative Michael Burgess** (R-Texas) that would have allowed the sale of an asthma inhaler banned by EPA because it uses a chlorofluorocarbon propellant. The product is no longer manufactured, but a million inhalers sit in a warehouse, soon to expire. The vote was 229-182 in favor—but a two-thirds vote was required for the people’s elected representatives to overrule the EPA bureaucrats. “I have asthma, and I take regular medication,” said Burgess, a physician. “But from time to time, I get into a situation where I need a rescue inhaler. It has been great to go to the drugstore and buy one instead of going to the Emergency Room for breathing treatment. But now that is no longer available.” To no avail, **Amphastar**, makers of the inhaler, known as Primatene Mist, had pledged to donate net profits to charity if the Burgess measure became law. Ironically, President Obama frequently cites, as justification for environmental regulations, the prevention of asthma.

Environmental extremists have perfected the art of “lawfare”—abusing the legal system to make gains they cannot make through the legislative process. Often, they sue EPA to force bureaucrats to take actions the bureaucrats want to take but for which they lack legal authority. Often, EPA settles such suits, in effect ceding the making of government policy to the suers. Now the **Institute for Public Integrity**, an arm of **New York University Law School** dominated by radical environmentalists, has announced a suit against the EPA to make the agency (in the words of **Ron Arnold** of the **Center for the Defense of Free Enterprise**) “ration how much fuel goes into the economy from refiners and fuel importers.” The suit demands that EPA set up a Cap-and-Trade system for the transportation sector, like the Cap-and-Trade system that couldn’t make it through Congress even when **Democrats** had a lock on both houses. To environmentalists, the **Constitution** is just a design flaw.