



# Environmental Policies under an Obama Administration: Is Change in the Air?

As the Democratic candidate for President, Illinois Senator Barack Obama laid out his key strategies for energy and the environment. As detailed in campaign speeches and on his official Web site ([www.barackobama.com](http://www.barackobama.com)), Obama promised a comprehensive New Energy for America plan that would accomplish the following goals:

- Provide short-term relief to American families facing pain at the pump;
- Help create five million new jobs by strategically investing US\$150 billion over the next 10 years to catalyze private efforts to build a clean energy future;
- Within 10 years save more oil than the United States currently imports from the Middle East and Venezuela combined;
- Put 1 million plug-in hybrid cars on the road by 2015;
- Ensure 10% of U.S. electricity comes from renewable sources by 2012, and 25% by 2025; and
- Implement an economy-wide cap-and-trade program to reduce greenhouse gas emissions 80% by 2050.
- Investing US\$150 billion over 10 years in key technology development;
- Establishing a national low-carbon fuel standard;
- Requiring 25% of U.S. electricity to come from renewable sources by 2025;
- Ensuring the federal government uses renewable sources of energy; and
- Re-engaging with the U.N. Framework Convention on Climate Change to combat climate change around the world.

On the environmental side, the Obama ticket vowed to make combating global warming a top priority, reinvigorate the U.S. Environmental Protection Agency (EPA), protect America's children from toxins like lead, and be a responsible steward of the nation's natural resources. The campaign said the United States has a moral, environmental, economic, and security imperative to tackle climate change in a serious, sustainable manner. They proposed to do so by (among other things):

- Reducing carbon emissions 80% by 2050 with the implementation of a market-based cap-and-trade system to reduce emissions to below 1990 levels;

The day after Obama's November 4 victory, *EM* asked leaders within A&WMA and the environmental industry for their initial thoughts on what a new administration might mean to the environmental industry, particularly in terms of new policies and regulations. Their responses are included in the following pages.

*(Note that most of these responses were received by EM before the mid-December announcements that Obama had selected Lisa Jackson, chief of staff for New Jersey's governor, as his EPA administrator; Steven Chu, director of Lawrence Berkeley National Laboratory, as Secretary of Energy; former EPA administrator Carol Browner as head of a new policy council to coordinate climate, environment, and energy issues; and Nancy Sutley, deputy mayor of Los Angeles, as head of the White House Council on Environmental Quality.)*

## Pew Center on Global Climate Change

Eileen Claussen

### Note from the Editor:

We invited the authors in this issue to share with *EM* readers their opinions on what the new administration will mean for the future of the environmental industry. Opinions expressed here are those of the author(s), and do not reflect official A&WMA policy.

President-Elect Obama faces an array of urgent challenges when he assumes the Presidency on January 20, but I am confident that he will provide the leadership needed to enact a comprehensive climate policy that significantly reduces U.S. greenhouse gas emissions. I am equally optimistic that new leadership will provide the impetus we need to forge a strong green energy economy and restore America's standing in the world community, and I look forward with great anticipation to working with the Obama administration to achieve these critical goals.

## Ozone Transport Commission

Jared Snyder, Shari Wilson, and Laurie Burt

*(Editor's Note: The below statement is excerpted from a letter dated November 21, 2008, from the Ozone Transport Commission to the Obama Energy/Environment Transition Team.)*

The members of the Ozone Transport Commission (OTC) fully support the position of the incoming administration, under President-Elect Obama, to link the pursuit of a clean environment with the development of clean energy and growing a new, green economy. Our states look forward to collaborating with a reinvigorated U.S. Environmental Protection Agency (EPA) to develop a course of action that uses the strong and flexible foundation provided by the Clean Air Act (CAA) to achieve the nation's clean air and climate goals. To begin this collaboration, we request a meeting to discuss key actions to advance these goals during the first hundred days of the new administration.

We applaud President-Elect Obama's support for vigorous measures to address climate change. Although the OTC was formed before climate change was widely acknowledged as a priority, we all recognize the critical nexus between climate, ozone, and particle air pollution. In fact, many policy initiatives that reduce greenhouse gas (GHG) emissions, such as the promotion of energy efficiency and renewable energy, also reduce emissions of other pollutants that lead to the formation of ozone and particulate matter. In addition, the elevated temperatures that are caused by climate change lead to higher levels of ozone and particulate

matter, hampering our efforts to achieve clean air.

In addition to tackling climate change, the incoming administration should focus on the substantial improvements in air quality that are needed to protect public health. Unfortunately, many policies implemented by EPA over the past eight years have failed to serve this fundamental goal of the Clean Air Act. For example, EPA has weakened the new source review provisions as a tool for improving air quality. EPA's Clean Air Interstate Rule (CAIR) was doomed from the start because EPA did not design it to resolve interstate transport or to achieve the reductions needed to facilitate regional attainment of the ozone and particulate matter standards. Finally, EPA's decision to regulate utility mercury emissions under the Clean Air Mercury Rule (CAMR), instead of under the hazardous air pollutant provisions of the CAA as intended by Congress, has set back the goal of reducing mercury levels by eight years.

To signal a clear change in direction from the past eight years, we propose an air quality agenda that: (1) recognizes the need for strong federal leadership in achieving clean air throughout the nation; (2) develops a collaborative relationship between the federal and state governments that nurtures the innovative state policies that have proven so important in reducing air pollution; (3) maximizes environmental benefits and economic efficiency by addressing issues in a holistic, multi-pollutant context; (4) puts public health and welfare protection first; (5) has sound science at its core; and (6) ensures adequate funding to improve the quality of the air our citizens breathe. To set the nation on a path to improve air quality, we suggest the following specific actions during the first 100 days that will produce tangible environmental results:

- Reverse the significant roll-back of environmental protection that has resulted from rules adopted by the Bush administration, including changes to new source review and prevention of significant deterioration rules, and the adoption of a cap-and-trade program for mercury emissions in lieu of setting maximum achievable control technology requirements for power plants;
- Expediently replace CAIR with a multipollutant rule that will fully protect public health by providing the emission reductions needed from the

power sector to bring the entire nation into attainment with all applicable national ambient air quality standards (NAAQS) for ozone and particulates within the timeframes required by the CAA;

- Take immediate action under the existing CAA to address climate change and also reduce emissions of ozone and other criteria pollutants, including: (1) grant the California greenhouse gas waiver; (2) issue an affirmative endangerment finding for regulating greenhouse gases; and (3) propose carbon dioxide standards for motor vehicles; and
- Restore adequate funding for state air quality programs, including support for a comprehensive pollutant monitoring network and reinstatement of the regional planning organizations as providers of high quality technical work.

To develop and strengthen the federal-state partnership, the OTC also proposes that we engage with your administration in a regular dialogue on air quality issues. These discussions will include potential longer-term actions, beyond the 100 days agenda outlined above. One issue of particular concern is the need for federal leadership in developing a national control program that fully addresses the problem of transported air pollution. Other issues that should be taken up in the first year of the new administration include the development of a framework for multi-pollutant air quality planning; restoring EPA's reliance on sound science with full participation of the Clean Air Science Advisory Committee (CASAC) in an open and transparent NAAQS review process; and recognition of the significant co-benefits of emission reductions for multipollutants achieved from policies that promote energy efficiency and renewable energy."

Our states look forward to collaborating with the new administration to address the air pollution issues that continue to pose a danger to our public and environmental health. We stand ready to work with you as you forge a new direction for the country.

## Holland & Knight LLP

Amy L. Edwards and Michael A. Galano

If campaign promises are any indication, President-Elect Obama intends to be very active on environ-

mental issues. Obama has said he will "reinvigorate the Environmental Protection Agency [EPA]. . . and reverse the Bush administration's attempts to chip away at our nation's clean air and water standards." With an increased Democratic majority in the House and a near filibuster-proof majority in the Senate, we may see a new type of federal environmental activism in 2009 and beyond.

Transition advisers to Obama have reportedly identified 200 Bush administration actions and executive orders in a variety of areas that could be quickly reversed, such as

- a December 2007 decision to deny California the authority to regulate carbon dioxide emissions from automobiles;
- nullification of a planned lease sale on tens of thousands of acres of public land in eastern Utah that some say threatens three nearby national parks; and
- any new regulations that the Bush administration is considering in its final weeks. These are rumored to possibly include new car fuel-efficiency standards; the Nuclear Regulatory Commission's proposed rule changing its environmental regulations to update its "waste confidence" finding, which determines the safety of spent nuclear fuel; and a proposal that would govern offshore leasing for renewable energy generators, such as wind turbines.

Obama has signaled that he is likely to take early action on climate change issues. During a November 18 video speech to the Governors' Global Climate Change Summit, he reiterated his support for federal cap-and-trade legislation to reduce greenhouse gas emissions to their 1990 levels by 2020 and to cut them by an additional 80% by 2050. He also advocated investing US\$15 billion per year in clean energy, as part of a proposed US\$150 billion green jobs stimulus package. His goal is to reduce the country's dependence on foreign oil and to transform its energy platform from a high-carbon to a low-carbon energy platform. Obama also supports a new international agreement to succeed the Kyoto Protocol.

Obama has also been a proponent of providing funding for the Diesel Emissions Reduction Act of 2005, which supporters say could achieve major reductions in harmful emissions by helping states



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clean-up diesel vehicles. Obama introduced legislation to ban the export of elemental mercury and pressured the U.S. Department of Energy to stop its proposed sale of mercury to companies overseas. He also introduced legislation to phase-out the use of mercury in the manufacture of chlorine.

With regard to hazardous waste issues, Obama has said he “will restore the strength of the Superfund program by requiring polluters to pay for the cleanup of contaminated sites they created.” He has previously demanded that the EPA report on what it is doing to reduce and control human exposure to hazardous contaminants at more than 100 Superfund sites nationwide. As a state senator, he voted to create the Brownfields Rehabilitation and Redevelopment Program.

In the Clean Water Act arena, Obama says that he supports maintaining current moratoria on new offshore oil and natural gas drilling and that he supports full funding for the Clean Water State Revolving fund. According to his campaign literature, EPA in an Obama administration “will strictly monitor and regulate pollution from large concentrated animal feeding operations (CAFOs) with fines for those who violate tough air and water quality standards.” Additionally, monitoring pharmaceuticals and contaminants like perchlorate, a component of rocket fuel, in water supplies may be another area of interest for the Obama administration.

Obama claims he will preserve wetlands through a broad range of traditional conservation programs, including the North American Wetlands Conservation Act and the Wetland Reserve Program in the Farm Bill. Obama has promised to help the Gulf Coast restore wetlands, marshes and barrier islands by immediately closing the Mississippi River Gulf Outlet, which experts say funneled floodwater into New Orleans.

From all early indications, there should be substantial federal environmental activism in the early days of the Obama administration, in which there is a flurry of congressional and administrative action that attempts to stimulate the domestic economy while reducing the country's dependence on foreign oil and its contribution to greenhouse gas emissions.

## **Edison Electric Institute**

**Quin Shea**

The electric utility industry congratulates President-Elect Obama on his historic election, and we look forward to working closely with his administration and the 111th Congress on all the critical energy issues before us.

Although the economy is certainly issue number one, we fully expect that environmental legislation and regulation will also receive early attention in the new administration. Key among the environmental issues certain to be debated are a federal renewable electricity standard (RES). A federal RES would mandate that electric utilities either generate a certain percentage of their electricity from a defined list of renewable resources, or purchase renewable credits from other renewable generators or the U.S. Department of Energy. Both approaches pose challenges for utilities.

The climate change issue is also likely to be debated in the near future. The electric utility industry is committed to working with Congress and the Obama administration to achieve greenhouse gas legislation that will result in significant emissions reductions across the economy between now and 2050.

A major priority for any climate legislation is that it encourages the development and deployment of a wide range of technologies—including advanced coal technologies integrated with carbon capture and storage and new nuclear power plants. This will be essential both for achieving the necessary reduction in carbon emissions, as well as protecting consumers and the economy from volatile energy prices. The industry believes that regulation of greenhouse gases under the Clean Air Act is the wrong tool and that comprehensive congressional legislation is the better way.

Another environmental issue likely to be addressed in the months ahead is the recent federal appeals court decision that struck down the U.S. Environmental Protection Agency's (EPA) Clean Air Interstate Rule (CAIR). CAIR would have resulted in dramatic reductions in sulfur dioxide and nitrogen oxides emissions.

The CAIR court decision has created considerable uncertainty among electric utility companies. The

industry will work shoulder to shoulder with states, EPA, and Congress to address federal air emission requirements.

Clearly there are a number of environmental issues ahead that hold great ramifications for the electric power industry. The decisions made today will affect the industry over the next 50 years or longer. It is imperative that we “get it right.”

Electricity is the very lifeblood of the U.S. economy. And a reliable and affordable electricity supply will be vital for our country's economy to recover. Edison Electric Institute and the nation's electric utility companies stand ready to work with both the Obama administration and Congress to forge an energy policy that will enable our industry to continue providing an affordable, reliable, and environmentally sustainable supply of electricity to our customers.

## International Institute for Sustainable Development

Philip Gass and John Drexhage

It appears most Canadians got what they were asking, or hoping, for with the election of Democrat Barack Obama. Not only did most polls of Canadians show that if given a vote in the U.S. election, 60–70% (across the spectrum from conservative to liberal) would cast it for the Democrat, but some stated they would rather vote in the U.S. election than the recent Canadian election.

It did not take long for Canadian Prime Minister Stephen Harper to attempt to capitalize on the Obama victory. Less than 24 hours after Obama's acceptance speech, Canadian Foreign Affairs Minister Lawrence Cannon announced that the Canadian Government was reaching out to the President-Elect to form a North American climate change agreement that would include a continental cap-and-trade system to reduce greenhouse gas emissions.

The move was a marked shift for the Canadian government on two fronts. Harper's governance has often been criticized, fairly or unfairly, as too close to the unpopular Bush/Republican policies of the past eight years. Canada also has been one of the worst international performers on greenhouse gas emissions among Kyoto signatories and Harper has readily admitted that Canada will not meet its

targets for 2012. In fact, the term “Canadian Route” has been applied to signatories that do not plan to reach Kyoto targets and refuse to purchase any emissions credits to make up the shortfall.

While the U.S. election was full of optimism and featured an engaged electorate, the Canadian election was marked by voter disengagement and lower turnout than usual. While Harper somewhat unexpectedly committed to develop a North American cap-and-trade system based on absolute targets during the election campaign, this has opened more questions given his government's strong advocacy for an intensity-based system during the government's first term.

Perhaps, for the sake of Canadian environmental policy, an Obama victory is just what the doctor ordered. The Canadian government can hardly be seen to be left behind by a U.S. president who has galvanized the globe. This is based, of course, on the assumption that the current economic crisis does not too negatively detract attention away from implementing a regulatory framework for greenhouse gases.

Since the U.S. election, Obama has strongly confirmed his intention to have the United States commit to a stabilization of greenhouse gas emissions at 1990 levels by 2020 and 80% reductions by 2050. Interestingly, the 2020 target is not too dissimilar from Harper's intent to reduce emissions 20% from 2006 levels. Canadians who may be uncertain about the true intentions and directions of this government in addressing climate change should now be somewhat assured that Obama's strong statement on climate change should result in commensurate actions on the part of their Northern neighbors. Obama has also committed to major infrastructure investment in clean energy and “green” technology as both an environmental and employment policy. It would be wise for Canada to not get left behind and consider further investment in the same areas to keep pace with the United States.

Harper was immediately touting a “warm exchange” finding “common ground” and how there could be “no closer friends and allies” than the U.S. and Canada after he called to congratulate the President-Elect. Complications regarding differences in opinion between Harper and Obama



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on issues like what to do about the carbon dioxide-intensive oilsands development will have to be resolved. Canada is often a “price taker” in the sense that the price of Canada oil exports is often set by U.S. buyers and could be greatly affected by Obama’s energy policy. The early indication, however, is that the change the United States is about to embark upon will have a positive, and significant, impact on how Canada shapes its environmental policy going forward.

## EPRI

Mike Miller

The United States is poised to address several pressing environmental questions in the immediate future. EPRI, as a tax-exempt scientific research organization, will strive to ensure that its research is relevant and informative to the public.

An overriding theme of future research and response to environmental initiatives is sustainability (i.e., minimizing one’s environmental footprint). Most electric power companies have sustainability programs that span a wide range of activities from simple recycling programs to large investments in demonstrating advanced systems to manage greenhouse gas emissions. Decisions made to address future environmental issues will increasingly consider the long-term view of life-cycle implications and overall environmental footprint.

Climate will grow as a dominant environmental issue. However, costs to implement greenhouse gas emissions reductions, the broader context of the economy, green collar jobs, and environmental sustainability will factor into policy development. Economic analyses and modeling tools are needed to examine options, including cap and trade, emissions offsets, emissions taxes, and assumptions about technology cost and deployment. We can anticipate that research on electricity and environment matters will be front and center as we address these problems.

The public and the electric industry must have a broad portfolio of options and technologies available to reduce greenhouse gas emissions, including carbon capture and storage (CCS), renewables, nuclear, energy efficiency and conservation. CCS, in particular, presents environmental and other

challenges associated with storing carbon dioxide underground. Upgrades to the transmission and distribution infrastructure are needed to accommodate intermittent generation from wind and solar, smart meters and distributed generation, storage devices, and plug-in hybrid vehicles. Widespread renewable energy deployment will require examination of land use, vegetation, and biological system impacts. Research is needed to ensure that implementable, cost-effective technology solutions are available to have an effect on the urgent challenges facing the country.

Another issue, next on the horizon, but currently overshadowed by climate change, is water. Power plants are the second largest user of water behind irrigation, primarily for cooling. To successfully deploy new nuclear plants and clean coal facilities with CCS, cooling water must be available in sufficient quantities for the life of the plant. Research is needed on technologies that reduce water use and consumption, improve water recycle/reuse, treat contaminated water, and allow for use of water from alternative sources.

State and federal regulatory activity will continue driving the need for environmental research. EPA is finalizing its fish protection rules under Section 316b of the Clean Water Act, which may require further research in technologies, such as barriers, screens, and intake structure designs, for compliance. EPA may modify its effluent guidelines for the electricity generation sector potentially requiring new technologies to reduce pollutant discharges such as mercury, arsenic, selenium, and chromium. New treatment schemes—biological, physical, and chemical—may be needed to address these pollutants.

Air quality issues also will dominate the environmental landscape as replacements for the Clean Air Interstate Rule and Clean Air Mercury Rule evolve. Research is expected to focus on the health implications and formation of pollutants such as ozone and mercury, other hazardous air pollutants, particulate matter and its components, and nanoparticles. Technologies that can reduce these emissions in a cost-effective and more integrated manner may be needed to meet emissions and ambient standards that evolve from ongoing science.

Research will play a critical role in providing objective data to inform the policy-makers, regulators,

and the public about the issues of health risks, implementation costs, and technology capabilities of the many issues expected to be at the forefront of the environmental debate. It is critical that decision-makers have objective information and innovative solutions at their disposal in addressing electric sector environmental issues.

## **Environmental Defense Fund**

**Vickie Patton**

Global warming will spiral beyond the reach of corrective action unless the United States establishes an enforceable, science-based cap on pollution and works with other major emitting nations to craft similar protections.

But, for far too long, environmental policy has been encumbered in “us versus them” terms, leaving unaddressed the grim threats that will harm all of us.

We must work together in common cause to arrest global warming.

### **A Foundation for Policy Action Anchored in Science**

In 1958, scientist Charles Keeling began measuring carbon dioxide concentrations atop the Mauna Loa peak in Hawaii and in Antarctica. In 1965, scientists convened one of the first national conferences on the causes of climate change. In 1976, a congressional committee held the first hearings that focused on climate change and led to measures that strengthened the nation’s research capacity.

Policy-makers today have before them staggering volumes of scientific research, painstakingly assembled data point by data point for more than half a century. The scientific anchor could not be deeper. The stakes could not be higher. The time for action is now.

### **Climate Policy Will Spur Job Growth**

A science-based cap on greenhouse gas emissions will spur innovation as America builds the new technologies, new products, and new solutions to reduce pollution. That means new jobs for American workers and new customers for American manufacturers. ICF International evaluated the impacts of the 1990 Clean Air Act amendments and found that jobs in environmental technologies and supporting industries doubled from 1991 to 2002, resulting in an estimated 3 million jobs.

### **Focus on Strong Pollution Limits**

Science-based, enforceable pollution limits are the surest path to climate protection. A protective enforceable cap, that clearly assigns responsibility for action, is essential to reduce pollution deep enough and fast enough to avoid the worst impacts of climate change. Taxes put a price on pollution—but leave the amount of pollution reductions literally up in the air. The focus should be on maximizing pollution cuts while minimizing costs.

### **Federal, State, and Local Policy-Makers Must Work Together**

Federal, state, and local communities have an integral role in cutting emissions through a vibrant partnership. For 40 years, policy-makers at all levels of government have collaborated to cut pollution. Today, more than half of all states have mandates for cleaner electricity, California and 13 other states have adopted greenhouse gas emission standards for motor vehicles, and more than 900 mayors are working to cut global warming pollution. Local communities, for instance, will lead the way in designing pedestrian-friendly neighborhoods that



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cut pollution and reduce our dependence on foreign oil. This teamwork will be essential if we are to succeed in stemming the tide of global warming.

#### **A Just Transition**

Climate policy must be unwavering in alleviating adverse economic impacts on the most vulnerable. The nation must smooth the transition to a low emitting economy. A just and equitable transition is the foundation for durable public policy.

#### **Politicians Alone Can't Solve this Problem**

We need smart national policies from Washington, DC, that will tap the boundless capacity of bold innovators, large and small, to solve the crisis. American innovation is the most powerful tool we can deploy to solve a crisis of this magnitude.

#### **An American Conversation**

We must maintain an on-going conversation across the nation as we move forward in addressing the climate crisis. The centerpiece of the Clean Air Act of 1963 provided for public, intergovernmental conferences to examine solutions to inter-

state air pollution problems. These conferences deepened public understanding of air pollution and strengthened public support for corrective action. Public education, outreach, and involvement will keep the nation moving forward together.

#### **We Cannot Afford Delay**

Every day that we delay passing comprehensive climate change legislation our carbon debt becomes larger and our challenge more difficult. Every day that we delay, we forego a precious moment of lead-time for the nation to prepare.

The time for action is now. America, together, can meet this challenge.

#### **The A&WMA President**

**Rick Sprott**

During most of 2008 as the economy soured, many who looked forward to the possibility of a post-Bush climate bill saw prospects for action dim,

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since costs would be seen as an economic drag. Others began to connect climate action with new energy policies that, while not free, could actually be an instrument of financial recovery.

This is not a new idea, but it is now needed on an unprecedented scale.

It is a "convenient truth" that energy policies that reduce greenhouse gases are also more focused on domestic enterprises or at least reduce imported resources. Renewable resources and clean fossil technologies can also drive development of products and services. And not just in the United States.

The newly appointed "Obama Green Team"—Energy Secretary Steven Chu, EPA Administrator Lisa Jackson, and Energy "Czar" Carol Browner—is a clear signal of the connection of energy, climate, and the environment. Further, the U.S. Congress appears ready to act with economic packages, energy reform, and climate bills. But we need more than money and mandates.

The double benefit of stimulus and environmental results must be based on sound policies that focus on pragmatic results and not ideology. We also need policies that recognize the global nature of our economy and environmental issues.

The good news is that the Obama team appears to be attuned to reestablishing American integrity in international affairs. Hopefully, our future economic, energy, and environmental policies will also keep an eye on the ramifications on others.

So, does Obama need to have a "bailout" plan for the environment? Indeed. But it should not be handouts.

Technology investments, long-term tax and investment policies, regulatory certainty, aggressive but achievable goals, and a relentless focus on results over process is "all" we need. A tall order to be sure, but A&WMA's members worldwide can provide a lot of the ideas to get there! **em**



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