



Presidential Climate Action Project

Climate Action Brief: The President's Power to Act Quickly

July 23, 2008

When the Environmental Protection Agency decided this month to postpone action on regulating greenhouse-gas emissions – despite the U.S. Supreme Court ruling last year telling the agency pointedly that it could do so – it was a vivid example of a critical problem bedeviling our federal climate policies, and a key solution.

The problem, as California Gov. Arnold Schwarzenegger described in an interview with ABC News, is that this administration “...just didn’t believe in global warming, or they didn’t believe that they should do anything about it ...”¹

The solution begins with the next President taking strong, early action to address climate change by using existing executive authority.

In a previous Climate Action Brief, we reported on an analysis of executive powers conducted for the Presidential Climate Action Project (PCAP) by the University of Colorado Law School.² Now, PCAP is releasing a sequel that gets far more specific. It identifies the precise sources of authority for a number of proposed executive actions that would move the federal government into leadership on climate action without requiring action by Congress.³

The report concludes that even under a relatively conservative philosophy on presidential power, sufficient authority for bold action exists in current law, including 96 statutes, five executive orders and several international treaties that address global warming.

“The results of this report demonstrate how a proactive administration with an understanding of the serious implications of climate change can make a significant impact immediately upon taking office,” the authors conclude.

While the President and Congress will need to collaborate closely to reshape federal policy, here are some examples of how the President can jump-start federal leadership:

- The next President can dramatically revise the nation’s energy and climate goals with the authority Congress has delegated him to establish the National Energy Policy Plan and National Policy on Global Climate Change. For example, he can set goals to reduce greenhouse-gas emissions 80 percent below 1990 levels by 2050 and cut national oil consumption in half by 2020.
- He can issue an executive policy that the atmosphere is a public commons and that public officials have a responsibility to protect it for current and future generations.
- He can restore greenhouse-gas reduction targets for the world’s biggest energy user – the federal government – and challenge federal agencies to achieve zero-net emissions over the next few decades.
- He could direct the administrator of EPA to act on the Supreme Court’s guidance and quickly issue a finding on whether greenhouse gases endanger public health and welfare – a necessary precursor to federal regulation. The President can direct the administrator to expedite the regulatory process once that finding is made.
- He can require federal agencies to perform climate impact assessments of their budget proposals and of federal actions.
- He can order the creation of a public registry of all federal subsidies that promote the production of greenhouse-gas emissions.
- He can direct agencies to prevent political interference in federal climate science by giving government scientists authority over the scientific content of their research and reports.
- He can direct EPA to consider a cap-and-auction system as a mechanism for regulating greenhouse gas emissions under the Clean Air Act.

As The Washington Post has noted, Senators John McCain and Barack Obama both have vowed to change the nation’s approach to reducing greenhouse-gas emissions. “It will fall to one of them to design and implement the policies that can bring about that change – just as Mr. Bush’s legacy will be marked by his failure to do so.”⁴

The sign on President Harry Truman's desk famously said, "The buck stops here." The next President might prefer this paraphrased passage from the National Environmental Policy Act:

It is the continuing job of the federal government to fulfill the responsibilities of each generation as trustee of the environment for succeeding generations.

CLARIFICATION