

The background of the slide is a photograph of the Utah State Capitol building, featuring a large central dome and classical architectural elements like columns and arches. Two flagpoles with the American and Utah state flags are visible in the foreground. The sky is clear and blue.

Energy and Cap & Trade Legislation

August 26, 2009

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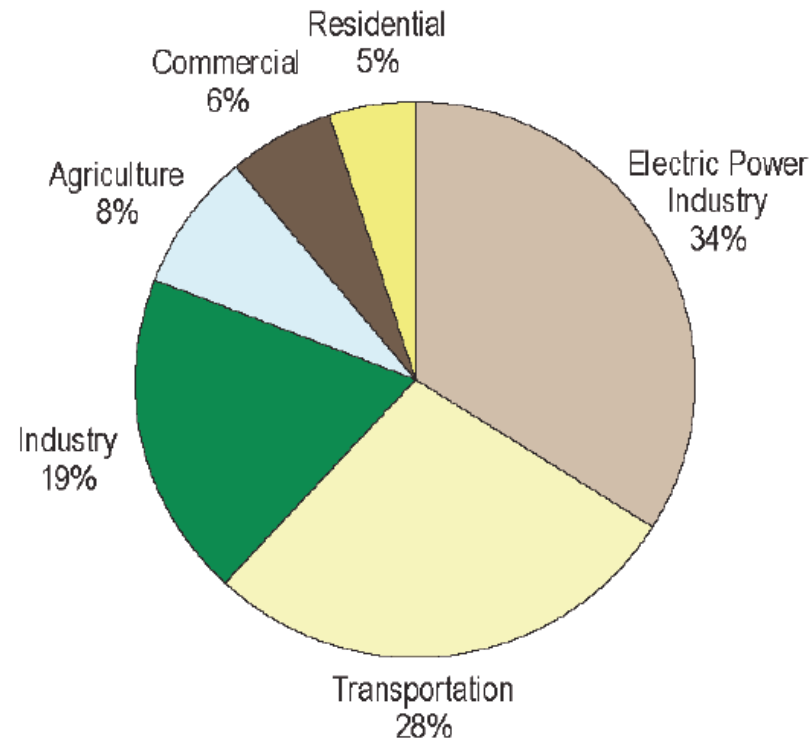
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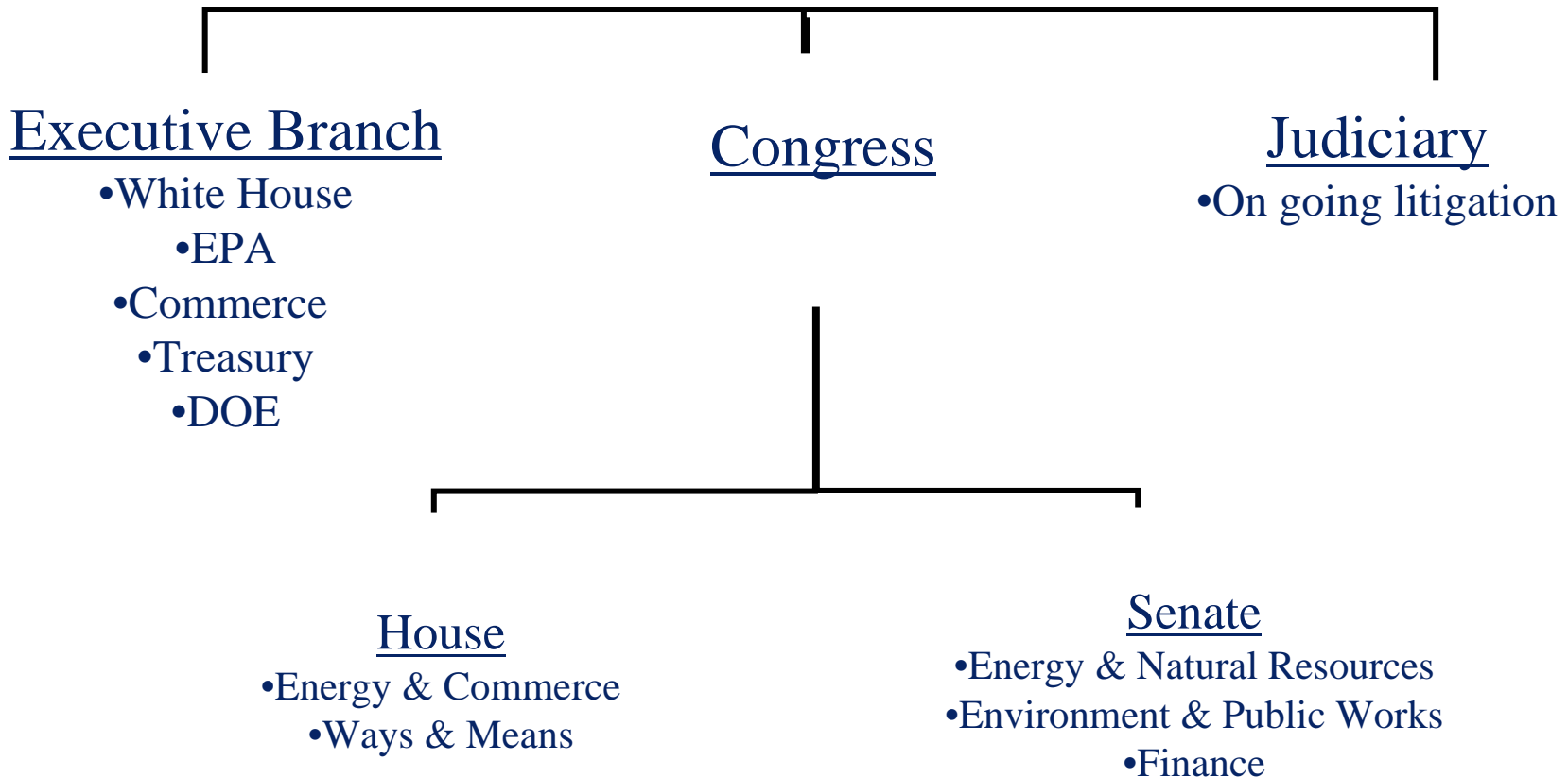
U.S. GHG Emissions By Sector

Sector-Based View of U.S. GHG Emissions (2006)



This figure reflects data from the *U.S. Inventory of GHG Emissions and Sinks: 1990-2006* (U.S. EPA, 2008), Table 2-12.

Federal Climate Change



Obama Administration

*But to truly transform our economy, protect our security, and save our planet from the ravages of climate change, we need to ultimately make clean, renewable energy the profitable kind of energy. So I ask this Congress to send me legislation that places a **market-based cap on carbon pollution** and drives the production of more renewable energy in America. And to support that innovation, we will invest fifteen billion dollars a year to develop technologies like wind power and solar power; advanced biofuels, clean coal, and more fuel-efficient cars and trucks built right here in America.*

President Obama Address to Congress, Feb. 24, 2009

Obama Administration

*The Administration is developing a **comprehensive energy and climate change plan** to invest in clean energy, end our addiction to oil, address the global climate crisis, and create new American jobs that cannot be outsourced. After enactment of the Budget, the Administration will work expeditiously with key stakeholders and the Congress to develop an **economy-wide emissions reduction program** to reduce greenhouse gas emissions approximately 14 percent below 2005 levels by 2020, and approximately 83 percent below 2005 levels by 2050. This program will be implemented through a **cap-and-trade system**, a policy approach that dramatically reduced acid rain at much lower costs than the traditional government regulations and mandates of the past. Through a **100 percent auction** to ensure that the biggest polluters do not enjoy windfall profits, this program will fund vital investments in a clean energy future totaling \$150 billion over 10 years, starting in FY 2012. The balance of the auction revenues will be returned to the people, especially vulnerable families, communities, and businesses to help the transition to a clean energy economy.*

FY2011 Obama Administration Budget Submission

Key Issues

- Scope?
 - What industries should be covered?
- What is the time frame for reductions?
- What is the role of market-based approaches (cap-and-trade) or carbon tax?
- If cap-and-trade, how should free allowances be allocated?
- How should allowance auction proceeds be spent?
- How will offsets be determined? For what types of projects?

Climate Change Legislative Proposals

- 105th Congress (1997 - 1998) – 7
- 106th Congress (1999 – 2000) – 25
- 107th Congress (2001 – 2002) – 80
- 108th Congress (2003 – 2004) – 96
- 109th Congress (2005 – 2006) – 106
- 110th Congress (2007 - 2008) – 235

Boxer-Lieberman-Warner Bill

Reported by Senate Environment & Public Works Committee

Senate Floor Debate (June 2008)

HOUSE VOTE

- Approved June 26, 2009
- 219-212
- 44 Democrats against, 8 Republicans for, and 3 not voting
- Blue Dog Democrats and Democrats from coal-producing and coal-dependent districts opposed bill

Title III of ACES

Global Warming Pollution Reduction Program

Emission Reduction Goals

- 2012 – 97% of 2005 GHG Emissions
- 2020 – 80% of 2005 GHG Emissions
- 2030 – 58% of 2005 GHG Emissions
- 2050 - 17% of 2005 GHG Emissions

- Establishes a cap-and-trade allowance system for GHG emissions
 - 85 percent of US GHG emissions by 2016
- Set number of annual allowances to meet reduction goals
 - Number of allowances decreases each year
- Covered entities required to possess an allowance, or offset, for each ton of GHG emissions
 - Allowances may be provided for free or purchased at auction

- Covered Entities
 - any electricity source
 - upstream sources of fuels/gases
 - natural gas distribution companies
 - geologic sequestration sites
 - identified industrial sectors
 - petro/petrochemical/identified mfrg sectors with 25,000 tons of GHG
 - industrial boilers with 25,000 tons of GHG emissions
- Expansive definition of “stationary source”
- Incorporated into CAA Title V permit
- Does not apply to mobile sources

- Allowance Allocations
 - About 85 % free allowances, reduced over time
 - Covered entities – 24%
 - “Affected parties” not subject to reduction requirements – 54%
 - To states for home heating oil consumers
 - To low income consumers
 - Support transition to clean economy, adaptation, technology transfer – 9.5%

- Allowances (after 2025)
 - All free allowances for industries, refineries, electric consumers, natural gas consumers, and oil consumers phase to zero by 2030
 - Allowances remain for energy efficiency, low-income consumer assistance, and mitigation programs
 - All unallocated allowances will be auctioned
 - strategic reserve price set at \$28/ton in 2012
 - auction proceeds returned to taxpayers in a per-capita Climate Change Rebate

- Energy-Intensive/Trade-Exposed Industries
 - Industries that compete in a global economy whose carbon costs cannot be passed on without a loss of market share
 - Iron/Steel
 - Paper
 - Ceramics

- Offset Program
 - Covered entities can use offset credits for up to 2 billion tons of emissions by using EPA approved domestic & international offset credits
- Offsets Integrity Advisory Board
- Offset Project Requirements
- Approval and Verification of Offset Projects

- **Other Provisions**

- **Preempts regional and state cap-and-allowance programs for a five year period**
- **Carbon Capture & Storage**
 - funds provided for R&D and Demonstration
 - CCS required by 2025 for coal plants permitted between 2009 – 2020
- **Federal Renewable Portfolio Standard (RPS)**
 - 20% by 2020
 - Portion can be met with energy efficiency
 - 12% renewable minimum

Senate Committees with Jurisdiction

- Environment and Public Works (Boxer)
- Energy and Natural Resources (Bingaman)
- Agriculture
- Commerce, Science and Transportation
- Finance
- Foreign Relations
- Homeland Security and Government Affairs
- Appropriations

Sen. Reid has imposed a 9/28 deadline for committees to complete work

Mandatory GHG Reporting Rule

- Required as part of the FY2008 Appropriations Act; propose rule within 9 months and issue final rule within 18 months of Act (June 26, 2009)
- Proposed April 10, 2009
- Compressed Timeline
 - Comments due June 9, 2009
 - Final rule expected November 2009
 - Implementation January 2010
 - First reports due March 2011

Mandatory GHG Reporting

- Not just CO₂, but includes 6 greenhouse gases: CO₂, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride
- Uses CO₂ equivalent for determining quantities in terms of metric tons of CO₂ equivalents per year

Mandatory GHG Reporting

- 20 listed source categories regardless of amount of GHG emissions
 - aluminum production
 - cement production
 - petroleum refineries
 - soda ash production
 - electricity generating facilities subject to Acid Rain program or emit 25,000 tpy CO₂e
 - electric power production with threshold amounts of SF₆ or PFCs
 - manure management systems that emit methane and nitrous oxide in amounts more than 25,000 tpy

Mandatory GHG Reporting

- 16 listed source categories if emit 25,000 tpy GHGs from fuel combustion units, uses of carbonate, and all listed source categories in this section
 - electricity generation
 - oil and natural gas systems
 - zinc production
 - industrial landfills
 - wastewater treatment

Mandatory GHG Reporting

- Report Requires:
 - annual facility emissions in metric tons of GHGs for all source categories and supply categories, with calculation methodologies in the rule
 - annual mass emissions by individual GHG for each source category and supply category
 - Unit and process-specific emissions
 - total electricity generated onsite in Kw/hr
 - total pounds of synthetic fertilizer produced and total nitrogen contained in the fertilizer

Proposed Endangerment Finding

- EPA is under court order in *Massachusetts v. EPA* to make an endangerment determination under Section 202 of the Clean Air Act
 - whether endangerment or not
 - does uncertainty preclude finding?
- Section 202 of the Clean Air Act is within Title II, which regulates motor vehicle emissions

Proposed Endangerment Finding

Clean Air Act Section 202(a):

The Administrator shall by regulation prescribe . . . standards applicable to the emission of any *air pollutant* from any class or classes of new motor vehicles or new motor vehicle engines, which in his judgment *cause, or contribute to*, air pollution which may *reasonably be anticipated* to endanger public health or welfare.

Proposed Endangerment Finding

- On April 24, 2009, EPA published its proposed endangerment finding
 - Public health and welfare endangerment finding
 - Air pollution and air pollutant is defined to include combined mix of 6 pollutants: CO₂, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride. Only the first 4 of these are emitted by vehicles.
 - 6 pollutants are at unprecedented levels in the atmosphere due to anthropogenic emissions.
 - Elevated levels of these 6 pollutants are the root cause of observed climate change.

Proposed Endangerment Finding

“If EPA goes forward with a finding of endangerment for all 6 GHGs, it could be establishing a relaxed and expansive new standard for endangerment. Subsequently, EPA would be petitioned to find endangerment and regulate many other ‘pollutants’ for the sake of the precautionary principle (e.g. electromagnetic fields, perchlorates, endocrine disruptors, and noise).”

**Office of Management & Budget Review of Proposed
Endangerment Finding**

Impact of Endangerment Finding

- PSD and NSR Permits
 - Section 165(a)(4) only requires consideration of “each pollutant **subject to regulation**” under the Clean Air Act for purposes of analyzing technology controls.
 - If GHG are “subject to regulation,” then every “major emitting source” would have to obtain a PSD permit and consider GHG controls.
 - Major emitting source is defined in part as a source that emits 250 tons per year or more of any “air pollutant.”
 - Administrator Jackson said she does not want to regulate “cows, Dunkin’ Donuts, Pizza Huts, and baby bottles,” but the statutory language is clear and if challenged, a court may find that EPA does not have the discretion to regulate only sources emitting more than 10,000 or 25,000 tpy of GHG.

Impact of Endangerment Finding

- New Source Performance Standards
 - Section 111 performance standards to “include a category of sources in such list if in his judgment it causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare.”
 - Permits for substantial sources of GHG (e.g. electric generating facilities, petroleum refineries) could face stringent GHG controls.

Impact of Endangerment Finding

- National Ambient Air Quality Standard(s) (NAAQS) for GHG
- State Implementation Plans
 - If NAAQS > ambient GHG levels, SIP will show how NAAQS will be protected
 - If NAAQS < ambient GHG levels, SIP will show how state will come into compliance with NAAQS within specified time
 - No state can affect GHGs by itself

Climate Change Proposals in the 111th Congress

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