

TRUMP'S TORTURED MANEUVERING ON CLIMATE CHANGE

By Bob Sussman

On March 28, surrounded by beaming Cabinet Secretaries and elated coal miners, President Trump unveiled an [Executive Order](#) (EO) sweeping away numerous rules, guidance documents and policies that formed the backbone of the Obama Administration's climate action plan. Oddly, however, neither the EO nor the President's comments mentioned climate change directly. Instead, the EO was entitled "Promoting Energy Independence and Economic Growth" and its avowed purpose was to review and modify or eliminate regulations that "potentially burden the development or use of domestically produced energy resources."

Taken on its own terms, is the EO a credible strategy for energy independence and job creation or is it dangerously out of touch with the realities of the US energy sector and a gratuitous and unnecessary attack on environmental protection? And after weeks of strident rhetoric from Administration officials, what explains the EO's curious silence on climate change and what can we glean about the struggles of Trump and his team to formulate a coherent climate strategy going forward?

ARE BURDENSOME REGULATIONS BLOCKING ENERGY PRODUCTION AND KILLING JOBS?

In his [remarks](#) on March 28, the President announced that he was taking "historic steps to lift the restrictions on American energy, to reverse government intrusion, and to cancel job-killing regulations" and promised that "we are going to start a new energy revolution -- one that celebrates American production on American soil." The President's words conjured up an image of an ailing domestic energy industry, hobbled by over-regulation and losing ground to imported oil, gas and coal. The reality could not be more different.

US production of oil and gas [soared](#) in the Obama years as hydraulic fracturing unlocked shale reserves that had previously been off limits because of technological and economic impediments. The US became self-sufficient in [natural gas](#) and crude oil imports [declined](#) to historically low levels. Top executives and analysts [predicted](#) that self-sufficiency in petroleum was within reach, assuming continued production increases and further reductions in demand. Chemical producers and other industrial users of natural gas [took advantage](#) of rock-bottom prices to lower their raw material costs and gain a global competitive advantage. Investment in expanded US production capacity for chemicals followed.

Amidst the good news, the American Petroleum Institute (API), the voice of large oil and gas producers, [proclaimed](#) an "American Energy Renaissance" and touted the robust increase in jobs and economic growth that a booming domestic industry had created. API and its members chafed, predictably, about excessive regulation but made no claim that it was jeopardizing expansion of domestic production. Fallout from low crude oil prices was in fact [deemed](#) a greater threat to the industry's future than the cost of complying with environmental requirements.

Coal – a key focus of the March 12 announcement – did experience a precipitous [drop](#) in production on President Obama's watch and mining employment declined. But President Trump's misleading focus on "energy independence" obscures the reality that coal was [replaced](#) by other domestic fuels (natural gas and renewables) and that the main drivers for this substitution were [economic](#) and not regulatory: coal simply became uncompetitive as the price of other energy sources dropped and their supply grew. Indeed, the reduction in coal mining jobs (even at their peak a small [percentage](#) of the US workforce)

was more than offset by job [increases](#) in natural gas production and distribution and in building and installing wind and solar energy facilities. The [Obama Clean Power Plan \(CPP\)](#) – described by President Trump as a “crushing attack on American industry” that “threatens our miners, energy workers, and companies more” than any other regulation -- had little impact on coal one way or the other both because it did not take effect and because authoritative observers like the Energy Information Administration [believed](#) it would simply add modest momentum to an energy transformation that was already well underway.

President Trump’s confident promise on March 28 to “put our miners back to work” rings hollow in light of these trends and was quickly challenged by numerous [experts](#), including power industry executives, who emphasized that coal’s decline is irreversible and that lost coal jobs are not coming back.

The EO targets for elimination four EPA regulations and four issued by the Department of Interior, plus 14 separate actions by the White House and individual agencies. No Administration has ever attempted a rollback of its predecessor’s rules of this magnitude. Yet Trump has offered no evidence that the costs imposed by these regulations and other actions are significant in light of the industry’s huge financial resources and are driving down production. Nor has he provided any reason to believe that the sweeping review of all other Executive Branch regulations impacting the energy sector required under the EO will reveal backbreaking regulatory burdens. If anything, the stunning growth of the energy sector under President Obama demonstrates the contrary.

IS TRUMP MASKING HIS TRUE INTENTIONS ON CLIMATE CHANGE?

It’s possible that the EO reflects an honest if badly misinformed belief that removing the shackles of regulation will unleash an energy production boom that will create thousands of jobs, as the President boldly predicted on March 28. A more cynical view, however, is that the EO’s real goal is to roll back all efforts to combat climate change but that Trump and his advisors do not want to acknowledge this goal directly and therefore cloaked the EO in the less controversial rhetoric of “energy independence.”

At first blush, this seems like a puzzling strategy. During last year’s campaign, the President famously [described](#) climate change as a China-invented “hoax” intended to harm US manufacturing. A few weeks ago, EPA Administrator Scott Pruitt [bucked](#) the prevailing scientific consensus by claiming that “there’s tremendous disagreement about the degree of [human] impact” on climate change and that “I would not agree that it’s a primary contributor to the global warming that we see.” A week later, OMB Director Mick Mulvaney [justified](#) cutting all climate-related spending in the Executive Branch with the dismissive comment that “We’re not spending money on that anymore. We consider that to be a waste of your money.”

Given this adamant rejection of climate change as a legitimate concern, the Trump EO could easily have cited doubts about the validity of climate science and the benefits of reducing greenhouse gas (GHG) emissions as a reason for abandoning Obama climate policies. Right-wing pundits and think tanks would have loudly applauded this approach.

Why didn’t it happen? The best explanation is that the Trump team is divided on both the substance and foreign policy implications of a hard-line position on climate change and is playing for time.

ACCEPTING THE ENDANGERMENT FINDING?

Domestically, the logical expression of a hard-line position would be a frontal assault on the 2009 EPA [endangerment finding](#), an authoritative synthesis of climate science that was developed in response to the 2007 Supreme Court decision in [Massachusetts v EPA](#) and makes a powerful case that fossil fuel-related GHG emissions are responsible for nearly all of the recent increase in global temperatures. EPA has been [petitioned](#) to withdraw the endangerment finding by climate skeptics and many expected that the March 26 EO would begin this process. However, the finding is based on rigorous analysis and draws on an exhaustive compilation of the leading scientific papers and reports on climate change. Despite their bluster, Administration officials may recognize that demolishing this impressive body of evidence and presenting a plausible alternative interpretation of the science is a huge – maybe impossible – lift that likely could not withstand peer review and judicial challenge and would invite ridicule and condemnation by the global community.

REMAINING IN THE PARIS AGREEMENT?

Internationally, an overt rejection of climate science would make continued US participation in the [UN Framework Convention on Climate Change \(UNFCCC\)](#) and the Paris COP-21 [agreement](#) untenable and put the US on a path of withdrawing from both agreements. President Trump [promised](#) to do exactly that in the campaign and conservative activists have been [demanding](#) that he follow through on his pledge. Yet many important foreign governments have [signaled](#) strong opposition to this scorched-earth approach and major US corporations (including leading oil and gas producers) have [advised](#) against leaving the Paris agreement. Although the President seems to have a large appetite for international conflict, his foreign policy team may be wary of adding another flash-point to a growing list of trade, immigration and national security frictions between the US and other major economies. And US industry may feel that remaining in the Paris agreement provides a shield against trade sanctions and legal liability for its inaction on climate change. Although both Trump and [Pruitt](#) have railed against it, White House spokesmen have been uncharacteristically coy about US thinking on the Paris agreement, [saying](#) only that the Administration expects to clarify its position before the G-7 meeting on May 26, an indication that internal consensus still remains elusive.

CAN TRUMP PULL IT OFF?

How will this high-wire act end? Will the Administration be able to get political credit from its right-wing base for demolishing Obama climate regulations while avoiding a destructive show-down on climate science and remaining at the international negotiating table in good faith? Unfortunately, the prospects for a soft landing are poor – Trump will be increasingly trapped in internal contradictions that he cannot reconcile.

If the endangerment finding stands, it will remain official US policy no matter how much Trump and his advisors quibble with the sufficiency of the science. Since EPA's climate-related actions rely on the endangerment finding as the basis for reducing GHG emissions, the Administration will need to attack these regulations on other grounds while tacitly accepting the reality of climate change and its causal link to human activity. One line of attack might be to argue that the regulations impose excessive costs and burdens on the energy sector and consumers – the thrust of the EO – but developing a solid base of evidence to support these claims will be very challenging, particularly since the extensive analyses developed for the Obama rulemakings demonstrate the opposite.

Another approach might be to accept the application of the Clean Air Act (CAA) and other laws to climate change but reinterpret their key provisions so they require minimal action to reduce emissions. For example, the CPP might be retained but greatly scaled back to only require limited improvements in efficiency at coal-fired power plants. (Such efficiency improvements comprise one of three “building blocks” for reducing emissions under the current CPP) However, the courts may well balk at this approach as a contrived effort to duck the challenge of climate change by taking refuge in narrow legal arguments that make meaningful action impossible. The public may likewise recoil at the spectacle of the Administration dancing evasively around the science of climate change while simultaneously emasculating all programs to deal with it.

The March 28 EO will set in motion numerous administrative proceedings to unwind Obama climate regulations and policies. Together with the ensuing litigation, these proceedings will consume the bulk of Trump’s term in office. States and environmental groups will challenge Administration rollbacks every step of the way and bring their own suits to force regulation of GHG emissions in areas where the Administration has authority but refuses to act. As this messy process unfolds, clear-cut victories will be elusive for the Administration and it may suffer serious defeats. With the endangerment finding in place, Trump will be on the defensive, increasingly unable to justify his attack on the Obama climate legacy and his unwillingness to address the climate threat. The lack of a coherent climate policy will be a growing liability that hangs over his presidency.

Remaining in the Paris agreement – if Trump chooses that course – will create a comparable minefield. While the global community may feel some relief that the US has not walked away, most countries will have little tolerance for a passive US role in which it remains aloof from implementation efforts and declines to discuss future actions. Nor will they accept US evasion and equivocation on climate science and the seriousness of the climate threat.

An influential Republican has [advocated](#) that Trump abandon the Obama commitment to a 26-26% emission reduction from 2005 levels by 2025 and offer a more modest target. This would be a no-win strategy. Trump’s base would see any emission reduction target to which the US commits in an international forum as an unprincipled compromise. At the same time, other countries whose own goals were predicated on an expectation of strong action by the US would likely feel betrayed and condemn US backtracking from its earlier level of ambition. Moreover, since Trump is in the process of dismantling current climate initiatives and withdrawing funding for climate programs, his Administration would lack the tools and the motivation to achieve any emission reduction target more ambitious than the status quo. And in the unlikely event that Trump succeeded in his plan to revive coal, US emissions would go up, not down.

A US commitment that envisions no further reduction in emissions and no national plan to address climate change would be denounced as a sham and a brazen retreat from responsibility by all the major economies. If Trump’s goal is to avoid diplomatic blowback, he will not succeed. Whether he noisily withdraws from the Paris agreement or undermines it from within, he will come under unrelenting attack by world leaders. US prestige and credibility will be badly damaged and China will gain in influence at the expense of the US.

The mood of celebration when Trump signed his energy EO on March 28 will be short-lived. His Administration will soon be mired in a painful and protracted effort to erase the Obama climate legacy that will likely be undermined by his convoluted position on climate change and his reckless and

unachievable goals for creating jobs through deregulation. The international arena will likewise offer no easy solution. Whatever approach Trump takes, withering criticism and loss of US prestige are unavoidable. Trump might have chosen a different course but the March 28 EO has sealed his fate and it's probably too late to turn back.