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Climate Action Plan Announced June 25: Changes to U.S. Energy Policy

Yesterday, in a sweeping move likely to have significant repercussions for the nation's energy policy, President Obama announced steps that the Executive Branch will take to address climate change by reducing carbon dioxide emissions in the United States. The **President's Climate Action Plan** calls for three categories of action: (1) cutting carbon emissions; (2) preparing the United States for the impacts of climate change; and (3) leading international efforts to combat climate change and prepare for its impacts. The electricity generation sector and the fossil fuel production sector are most likely to be adversely affected by the initiatives in the Plan. The building industry and construction materials industry are also likely to be subject to new regulation.

Energy Sector

The Plan directs the Environmental Protection Agency (EPA) to establish standards for carbon emissions from both new and existing power plants. This directive represents a significant change from **EPA's April 2012 proposal** to regulate carbon dioxide emissions only from new power plants. However, it is important to note that standards for existing power plants would not go into effect immediately. A new source performance standard would first apply to new units and *modified* existing plants. Standards regulating emissions from existing plants that make no modifications would be subject to emissions guidelines that would need to be implemented through State action. Further, the administrative process cannot be overlooked: EPA is required to consider and respond to public comments on its proposals. Companies wishing to have a voice in this process – including both generators and users of electricity – should be prepared to submit comments and provide data to support their arguments.

In addition to calling for limits on carbon dioxide emissions, the Plan would encourage generation from renewable energy sources. The Plan notes that the United States has more than doubled its generation of electricity from wind, solar, and geothermal sources and sets a goal to double renewable electricity generation again by 2020. To meet these goals, the Administration would direct the Department of the Interior to issue permits for the construction of 10 gigawatts of renewable electricity generation by 2020. In addition, to facilitate improvements to the electricity grid, the Administration has directed federal agencies to streamline the siting, permitting, and review process for electricity transmission projects. The Plan also calls for increased investment in clean energy technology.

The transportation sector would also be affected by the Plan. Referencing the 2011 fuel economy standards for heavy-duty vehicles, the Plan pledges to develop fuel economy standards for post-2018 heavy duty vehicles. The Plan also encourages the development of biofuels, advanced batteries, and fuel cell technologies for all transportation sectors, committing the Administration to "leverage partnerships between the private and public sectors to deploy cleaner fuels." Companies in this sector should watch for possible tax incentives and opportunities to partner with government agencies.

In addition, the Plan would encourage energy-efficient construction and increased focus on energy efficiency standards for consumer appliances. Construction companies and appliance manufacturers should be prepared to participate in the development of new requirements to ensure that their views are presented.

Infrastructure

While emphasizing that the reduction of carbon dioxide emissions would not immediately reduce risks from extreme weather events related to climate change, the Plan encourages safer infrastructure construction by requiring federal agencies to support "climate-resilient" infrastructure projects. In addition to creating a task force on climate preparedness, the Plan would encourage federal agencies to remove obstacles to developing climate-resistant buildings and highways. The Plan also commits to

convening representatives from the insurance industry and other involved sectors to develop best practices for accounting for climate change risks in insuring for disasters.

International Efforts

The Plan commits the Administration to working with other countries to reduce greenhouse gas emissions and enhance climate preparedness. This would include both working on multilateral initiatives to stimulate efficiency in the building sector and implementing bilateral agreements with emerging economies to reduce greenhouse gas emissions. Other initiatives would include reducing deforestation, encouraging the use of clean energy, and encouraging free trade in environmental goods such as clean energy technology.

Other Key Points

The Plan also highlights the Administration's proposal to eliminate tax subsidies for fossil fuels in the United States and the Administration's commitment to end government support for public financing of new coal power plants overseas, except where there are no feasible alternatives or where carbon capture and sequestration will be used. The Plan will develop an international agreement requiring both developed and developing countries to limit their carbon emissions. The Plan also commits the Administration to working with the international community to reduce emissions of short-lived climate pollutants, such as black carbon, methane, and hydrofluorocarbons.

Conclusion

The Plan calls on executive branch agencies including the Environmental Protection Agency, the Department of Energy, and the Department of Interior, to take prompt action to address climate change. While the Plan describes an ambitious agenda, it can be implemented only through agency regulation. The development of those regulations, and the legal challenges to them, will provide the industrial sector with opportunities to shape the ultimate fate of the Plan.

If you have any questions regarding this alert, please contact [Monica Gibson](#) at or 202.344.4526, or another member of [Venable's Environmental Practice Group](#).