

Client Alert

Environmental, Health & Safety Practice

June 26, 2013

President Obama Issues Ambitious Climate Action Plan

On June 25, President Obama released his Climate Action Plan.¹ The Plan is long on aggressive goals and short on details, but clearly will impact businesses in a number of economic sectors. The Plan revolves around three high-level goals, with specific objectives for each goal. This Client Alert concentrates on those objectives most directly relevant to businesses.

Goal 1 - Cut Domestic Carbon Pollution:

The central pillar of this aspect of the Plan is a directive to the U.S. Environmental Protection Agency (EPA) to set emission standards for greenhouse gases generated by power plants.² In a companion memorandum to EPA, the Plan sets deadlines for these standards:

- September 20, 2013 – Re-proposal of the New Source Performance Standard (NSPS) for new plants, with a Final Rule timely issued at a later date
- June 2014 – Proposal of NSPS for existing plants
- June 2015 – Final NSPS for existing plants
- June 2016 – Deadline for states to submit State Implementation Plans for implementing the standards

Like the Plan, the Memorandum is not particularly detailed. However, it outlines several considerations to be followed in the standard-setting process, including engagement with States and other stakeholders, cost control, allowing market-based approaches, energy efficiency, and a vague direction to ensure “continued reliance on a range of energy sources and technologies.”

The Plan includes other objectives for the first goal of cutting domestic carbon emissions.

- Doubling renewable electricity generation by 2020, by expediting permitting of clean energy and transmission projects
- Directing EPA to develop post-2018 fuel economy standards for heavy-duty vehicles
- Investing in advanced biofuels and other transportation technologies, as well as federal financing for energy efficiency investments
- Advancing standards and programs for energy efficiency, likely to include standards for industrial motors, commercial refrigeration units and other utility fixtures

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- Developing plans to reduce hydrofluorocarbon emissions
- Creating methane emission reduction strategies, including programs or rules for pipeline upgrades, and less venting and flaring

Goal 2 - Support Climate Adaptation:

In the Plan and his introductory speech, the President acknowledged the need to manage climate effects, regardless of progress on actions to cut emissions. Although less directly applicable to businesses, several of the climate adaptation goals have implications for a number of sectors.

- Integrating climate impacts evaluation into brownfields grants
- Instituting best practices for creating sustainable and resilient hospitals
- Developing best practices for insuring against climate risks
- Integrating climate adaptation into land and water conservation decisions

Goal 3 - Demonstrate International Climate Leadership:

The third goal of the Plan focuses on international initiatives. Here, a few have the potential to impact business sectors.

- Instituting best practices for unconventional natural gas development
- Promoting use of natural gas, nuclear power, clean coal and energy efficiency
- Prompting WTO negotiations on free trade in clean energy technologies (solar, wind, hydro and geothermal) and other environmental goods, based on the list developed in 2011 by the Asia-Pacific Economic Cooperation (APEC) countries.³
- Eliminating U.S. foreign aid for fossil fuel facilities, and ending public financing of overseas coal-fired power projects (except where no other economically feasible alternative exists or carbon capture technology implemented)

Other Observations:

Most of the President's speech followed the written Plan, but he made some notable additional remarks.

- Keystone XL Pipeline project - "Allowing the Keystone pipeline to be built requires a finding that doing so would be in our nation's interest. And our national interest will be served only if this project does not significantly exacerbate the problem of carbon pollution."
- Development of Domestic Natural Gas – "We should strengthen our position as the top natural gas producer because, in the medium term at least, it not only can provide safe, cheap power, but it can also help reduce our carbon emissions."

The President's Climate Action Plan impacts every sector in the economy, if not only from its effects on energy consumption and cost. Because the issues highlighted in this Client Alert and the other nuances of Plan will impact different businesses at varying levels, we look forward to working with clients on their strategies for managing the implications of the Plan.

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¹ Executive Office of the President, The President's Climate Action Plan (June 2013).

² Memorandum for the Administrator of the Environmental Protection Agency (June 25, 2013).

³ The 2011 APEC list of environmental goods includes a range of products, including parts for clean energy generation (biomass, wind, landfill gas), sludge driers and other waste water treatment equipment, solar cells, emissions monitoring technologies and analytical equipment.