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Will Any Of The Feathers In Obama's Cap Be Green? What The Obama Administration Will Mean To Environmental Regulation

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The new administration's agenda for fundamentally changing environmental regulations is in stark contrast to that of the outgoing administration. President-elect Obama ambitiously promises substantial environmental change over the next four years, including lowering greenhouse gas emissions, tightening water and air pollution policies, and enacting an aggressive energy plan. These changes will no doubt come through more complex and more stringent regulations. Many wonder whether Obama will achieve these sweeping goals given the plummeting economy, huge federal deficit, and the flurry of midnight regulations being passed by the Bush administration, all of which will likely set Obama's targets back even further.

Obama has made clear his belief that environmental protection and economic development share a symbiotic relationship, such

that rebuilding the economy can be accomplished with increased environmental regulation. Obama believes his energy plan, which proposes allocating \$150 billion over 10 years to finance infrastructure projects and develop climate-friendly materials and technologies, will create new jobs and a new industry while also benefiting the environment. Obama's energy plan will seek to reduce overall oil consumption by 35%, or 10 million barrels, by 2030. It also calls on the United States to lead a new international partnership to combat global warming. Despite these goals, a troubled economy along with other political barriers, could mean that Obama's bold new energy legislation is unlikely to pass during his first year.

In an effort to curb greenhouse gas emissions and reduce our country's dependency on foreign oil, Obama aims to enact cap-and-trade legislation before an important climate change summit occurs a year from now. Obama's cap-and-trade plan will stop greenhouse gas emissions levels at their current rate and seek to lower them. Under the plan, the government would set annual reduction targets and require that overall emissions be reduced to 1990 levels by 2020, and further reduced to 80% below 1990 levels by 2050. Companies that produce carbon dioxide and other greenhouse gases will receive allocations (credits) or need to purchase credits that give them the right to emit at certain levels. Companies that emit less carbon than allocated or than their credits allow can profit by selling excess credits on the open market. Those that exceed their emission allowance would have to make up the difference or face heavy fines. Obama's plan would also require that all credits be purchased at auction, rather than allocated based upon the industry. His intent is that all polluters pay for every ton of emissions released. The market will set the price, but Obama has stated, "Businesses don't own the sky, the public does, and if we want them to stop polluting it, we have to put a price on all pollution."

To ensure that economic issues do not push his environmental agenda to the back burner, Obama filled his slate of environmental advisors and enforcers with veteran regulators and scientists, signaling his serious commitment to environmental change.

- Steven Chu will serve as Obama's Energy Secretary. Currently the director of the Lawrence Berkeley National Laboratory, Dr. Chu is a strong advocate of alternative and renewable energy research and a co-recipient of the Nobel Prize in physics. Dr. Chu is a disciple of Vice President Al Gore and has a keen interest in climate change.
- Lisa Jackson will head the Environmental Protection Agency ("EPA"). Ms. Jackson was recently appointed chief of staff to New Jersey Governor Jon Corzine and formerly headed the New Jersey Department of Environmental Protection.
- Carol Browner will serve as Obama's Energy Czar. Ms. Browner was the EPA Administrator under President Bill Clinton.
- Nancy Sutley has been a deputy mayor of Los Angeles for

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Energy and Environment and will lead the White House Council on Environmental Quality.

Obama's selections reflect his aggressive stance on global warming and climate change and indicate a strong potential for increased funding for scientific research and stronger environmental regulation. This is a complete about-face from the Bush administration's environmental approach, which some groups have criticized as a rollback of environmental regulation and progress. While the incoming administration will have some strong allies in Congress who are interested in tackling climate-change legislation, objections from the regulated communities, wounded by the current economic situation, will certainly influence the timing and extent of this effort.

Nonetheless, because of Obama's enthusiastic interest in the environment, many groups are vying to have their issue placed at the top of Obama's agenda, which includes a host of air and water policies, ranging from mercury levels to smog standards and chemicals management, as well as international environmental rules related to biodiversity and hazardous waste trade. In 2007, the Supreme Court ruled that the EPA has the power to regulate greenhouse gases under the Clean Air Act. The Bush administration has not exercised this authority. In contrast, it is expected that Obama will draft greenhouse gas regulation.

There is no way to predict the future, but it is clear that attention to environmental issues will increase during the in-coming administration. Changes to current environmental regulation, as well as the enactment of new and more stringent rules, are on the horizon.

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