Environment Alert

June 19, 2017

Some Will Always Have Paris: Withdrawal from the Climate Change Accord May Not Reduce the Heat on the Health Care Industry Environmental Alert

President Trump's decision earlier this month to withdraw the United States from the Paris Agreement—an international, nonbinding agreement to take steps to limit global temperature rise—followed a series of moves at the federal level to dismantle Obama-era restrictions on emissions of greenhouse gases (GHG). For example, the administration has rescinded major elements of the Obama administration's Climate Action Plan,[1] initiated a review of the Environmental Protection Agency (EPA) 2015 Clean Power Plan restrictions on carbon emissions from power plants,[2] and extended the implementation dates for restrictions on methane emissions from oil and gas drilling on public lands.[3]

Despite these actions and pronouncements, many states and cities continue to press forward with, if not expand, efforts to reduce significantly the carbon footprint within their jurisdictions. One day after the President's announcement, the Governors of New York, California and Washington established the United States Climate Alliance, a coalition of states committed to upholding the Paris Agreement, reducing emissions by 26-28 percent from 2005 levels by 2025 and meeting or exceeding the targets established in the federal Clean Power Plan.[4] Building on a Memorandum of Understanding endorsed by eight U.S. cities and 10 states,[5] New York Governor Andrew Cuomo's most recent State Energy Plan requires a reduction in state emissions of 40 percent below 2005 levels by 2030 and 80 percent by 2050 (the "80 by 50" pledge). New York City separately signed on to the 80 by 50 pledge and, in the wake of President Trump's Paris Agreement announcement, Mayor DiBlasio joined the Climate Mayors Coalition, committing to "adopt, honor, and uphold the commitments to the goals enshrined in the Paris Agreement."[6]

To achieve these emissions reductions goals, states and cities appear likely to focus on large physical footprints like health care facilities that use significant amounts of energy (and the universities that often house them and other large laboratories). Buildings are natural targets for GHG reduction efforts due to the high energy demands associated with lighting; heating and air conditioning; office equipment and data systems; refrigeration equipment; and other commercial and consumer electronics products. Within the building category, hospitals are unusually heavy power users due to their large envelope; 24-hour operation; the need for precise environmental controls; the highly specialized, often energy-intensive medical equipment and information technology and data storage systems used; and the need for reliable backup, if not primary, power generation.[7] Hospital facilities account for less than 1 percent of all commercial buildings, but account for over 5 percent of commercial building energy consumption.[8] A 2016 Yale/Northeastern study found hospitals to be the second most energy-intensive commercial buildings in the country.[9] Indeed, the health care sector is responsible for roughly 10 percent of the nation's GHG emissions, according to the study.[10]

Many hospitals have recognized the need to reduce energy use and associated direct and indirect GHGs, if only for the cost saving associated with reduced energy consumption. In New York City, 10 of the largest hospitals joined the NYC Carbon Challenge in 2009, striving to reduce facility-based emissions by between 30 and 50 percent by 2025.[11] Boston-area hospitals cut their energy GHG emissions by 29 percent between 2011 and 2015, and are on track to reduce total emissions by 33 percent by 2020.[12] These successes demonstrate that emission reductions are possible, but they are also likely to increase the pressure on the broader health care sector as states and municipalities begin to look past voluntary efforts to regulatory compliance programs to drive down emissions.

Cities and states committing to Paris-like obligations appear likely to look to their health care and university constituents to squeeze out even greater building efficiency through new building design, improved operations and purchasing, and innovations. Some regulators may look to incentivize this transition by promoting investments in energy efficiency and cleaner energy using tax incentives, grants, low-interest loans and other financing mechanisms. Some regulators may look to market-based systems, like the Regional Greenhouse Gas Initiative in operation for electric power plants, to reward early actors and punish laggards. Some governments may look to traditional command-and-control regulations to drive emissions reductions within the industry. Hospitals and universities, already on the front lines of this fight, may want to get ahead of their regulators to help shape those strategies in order to avoid being reshaped by them.

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[1] White House, *Executive Order 13783: Promoting Energy Independence and Economic Growth* (March 28, 2017).

[2] EPA, *Review of the Clean Power Plan; Announcement of Review*, 82 Fed. Reg. 16329 (April 4, 2017).

[3] Bureau of Land Management, *Waste Prevention, Production Subject to Royalties, and Resource Conservation: Notification; Postponement of Compliance Dates* (announced June 15, 2017).

[4] New York State, *New York Governor Cuomo, California Governor Brown, and Washington Governor Inslee Announce Formation of United States Climate Alliance* (June 1, 2016).

[5] Under2 Coalition, *Memorandum of Understanding on Subnational Global Climate Leadership* (2015).

[6] Climate Mayors Coalition, *305 US Climate Mayors commit to adopt, honor and uphold Paris Climate Agreement goals: Statement from the Climate Mayors in Response to President Trump's Withdrawal from the Paris Climate Agreement* (June 1, 2017).

[7] Department of Energy, Energy Information Agency, *Energy Characteristics and Energy Consumed in Large Hospital Buildings in the United States in 2007*, Commercial Buildings Energy Consumption Survey (CBECS) (*August 17, 2012) ("CBECS Report"*).

[8] CBECS Report, https://www.eia.gov/consumption/commercial/reports/2007/large-hospital.php.

[9] Eckelman MJ, Sherman J, *Environmental Impacts of the U.S. Healthcare System and Effects on Public Health*, PLoS One, DOI:10.1371 (June 9, 2016).

[10] *Id.*

[11] NYC Mayor's Office of Sustainability, *Green Buildings & Energy Efficiency: The New York City Carbon Challenge* (2017), http://www.nyc.gov/html/gbee/html/challenge/nyc-carbon-challenge.shtml.

[12] Health Care Without Harm, *Metropolitan Boston Health Care Energy & Greenhouse Gas Profile: 2011 through 2015, and 2020 Projection* (May 2017).