"Analysis of the Impact of the New Guidance from the U.S. Department of Energy on Foreign Entities of Concern and Its Effect on the Electric Vehicle and Renewable Energy Sector"

Written by: Harby René Sotelo Granados
Renewable Energy Regulatory Strategist
For: EnergyGreenHub – Translate by IA
Email: info@energygreenlaw.com

News Summary:

The U.S. Department of Energy (DOE)[1] has finalized its interpretive guidance on the definition of "foreign entity of concern" (FEOC)[2] as part of Section 40207 of the Bipartisan Infrastructure Law (BIL). This measure aims to limit the participation of FEOCs in the domestic battery supply chain and promote the growth of processing and manufacturing of battery materials in the U.S. and allied third countries. Largely finalized as originally proposed in December, with refinements and clarifications that take into account public comments and will assist car manufacturers and other stakeholders in identifying FEOCs in their battery supply chains. (Taken from DOE - May 03, 2024), Strategic and Economic Implications:

Strengthening the Domestic Supply Chain:

The guidance seeks to strengthen U.S. independence from foreign sources in battery manufacturing, especially from countries considered adversaries, such as China, Russia, Iran, and North Korea. This is crucial as dependence on critical materials from these nations can represent a strategic vulnerability in terms of national and economic security.

Impact on Investments and the Electric Vehicle (EV) Market:

With the boom in electric vehicles, whose sales have quadrupled[3] under the Biden administration, the U.S. is positioning itself as a leader in the transition to sustainable mobility. However, this

[1] https://www.energy.gov/articles/doe-releases-final-interpretive-guidance-definition-foreign-entity-concern
[2] The BIL defines an FEOC, in part, as an entity that "is owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is a covered nation." Covered nations are defined in the BIL as China, Russia, Iran, and North Korea.
[3] https://www.bloomberg.com/news/newsletters/2024-01-09/electric-vehicle-market-looks-headed-for-22-growth-this-year

transition is challenged by the dependency on critical minerals necessary for EV batteries[4], which are mostly processed by foreign nations. The DOE's guidance and the corresponding tax regulation from the IRS are designed to gradually change this dynamic towards greater self-sufficiency.

Tax Implications for EV Consumers and Manufacturers:

According to the new regulations, starting in 2024 and 2025, electric vehicles that contain battery components manufactured, assembled, or that include minerals processed by FEOCs will not be eligible for tax credits[5]. This could lead to an increase in production costs for EV manufacturers who will need to adjust their supply chains, potentially passing these costs onto consumers.

Impacts on Strategic Minerals:

The exclusion of FEOCs from the supply chain of critical minerals for batteries is a step towards reducing U.S. dependency on imports from potentially hostile countries. This not only increases national security but also promotes the mining and processing industry within the country and with trusted allies, fostering jobs and economic development.

Conclusions and Future Outlooks:

The implementation of this guidance by the U.S. Department of Energy (DOE), in close collaboration with the Treasury Department and the IRS, represents a turning point in U.S. energy and economic policy. This measure supports the Biden-Harris administration's "Invest in America" agenda, ensuring that clean energy technologies and electric vehicles are not only environmentally sustainable but also economically beneficial and secure from a foreign policy perspective.

This approach demonstrates a clear commitment to promoting an energy infrastructure that is both ecologically responsible and economically viable, setting a standard for the integration of ethical considerations at the core of energy policies. By doing so, the United States not only aims to lead in electric vehicle technology globally but also to ensure that the growth in the renewable energy sector is based on an ethical and strategically solid production and supply foundation.

[4] https://unctad.org/es/news/auge-de-minerales-criticos-el-cambio-energetico-global-trae-oportunidades-y-riesgos-para-los

[5] chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.irs.gov/pub/irs-pdf/p5866sp.pdf

The new policy also underscores the need for American companies to intensify the search for strategic minerals in Latin America[6]. Given that the region is rich in resources such as lithium, copper, and nickel — crucial for the manufacture of electric vehicle batteries — strengthening trade relationships and developing sustainable partnerships in Latin America is crucial for diversifying supply sources and reducing dependency on suppliers from potentially adversarial countries. This will not only contribute to U.S. energy security but also promote economic development in both regions, encouraging responsible and sustainable extraction and processing practices[7].

Ultimately, the DOE policy has the potential to significantly transform the U.S. energy landscape, fostering an environment in which sustainability and the economy not only coexist but enhance each other. This proactive approach to clean energy and advanced technology bodes well for the United States' position in the new global economy, marked by a rapid transition to cleaner and more efficient energy solutions. Additionally, it establishes a framework for international collaboration in the fight against climate change and the promotion of a sustainable energy future, particularly in the rich and diverse region of Latin America.

[6] https://es.weforum.org/agenda/2023/01/litio-por-que-america-latina-es-clave-para-la-transicion-energetica-mundial/

[7] https://blogs.iadb.org/energia/es/a-mas-baterias-de-litio-mas-reciclaje-y-reuso/