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Climate Adaptation Plans – Will Words Be Translated to Actions? COP27, U.S., State, and Local Action Plans

Clients will have to adapt to the certainty of increased regulation at the international, federal, state and local levels to meet the aggressive carbon-reduction goals set by governmental authorities. John Doerr in his recent book " Speed & Scale, An Action Plan for Solving our Climate Crisis Now" summarizes the actions he submits that politicians, industries and investors must undertake to reach net-zero by 2050. He begins his blueprint for action with an admonition from his 15-year-old daughter voiced at a dinner he hosted in 2006 after a screening of An Inconvenient Truth: "Dad, your generation created this problem. You better fix it."

COP27

November marks the 30th anniversary of the adoption of the United Nations Framework Convention on Climate Change (UNFCCC). The 27th Conference of the Parties (COP 27) is taking place from November 6-18 in Sharm el-Sheikh, Egypt. President Abdel Fattah El-Sisi welcomed the expected 2,000 participants with this optimistic address:

"As incoming President, Egypt will spare no effort to ensure that COP27 becomes the moment when the world moved from negotiation to implementation and where words were translated to actions, and where we collectively embarked on a path towards sustainability, a just transition and eventually a greener future for coming generations."

COP27 follows on the heals of the release of the report by the United Nations

Environment Programme, "UNEP's Adaptation Gap Report 2022. Too Little, Too Slow –

Climate Adaptation Failure Puts World at Risk." It concludes, in part, "More than 8 out of 10 countries now have at least one national adaptation planning instrument, and

they are getting better and more inclusive;" The report continues:

- At least 84 percent of parties to the UNFCCC up five percent from last year have established adaptation plans, strategies, laws, and policies. About half of those have more than one planning instrument in place.
- One-third of the 197 country parties to the UNFCCC have incorporated quantified and time-bound targets, which are an increasing part of national adaptation planning.
- Nearly 90 percent of planning instruments analyzed display consideration for gender and/or historically disadvantaged groups, such as indigenous peoples.

However, financing to turn these plans and strategies into action still isn't following. International adaptation financing that flows to developing countries is 5-10 times below estimated needs and the gap continues to widen.

More Words – Federal, State, and Local Plans That Ensure More Stringent Regulation

Federal Agency Plans

Implementing President Biden's 2020 Climate Change Executive Order 14008, issued in his first week in office, EPA Administrator Michael Regan issued a policy statement on May 26, 2021 that directed all EPA offices to update their 2014 Climate Implementation Plans. As described by the EPA:

"Taken together, the 20 implementation plans provide a roadmap for the specific actions EPA will take over the next four years with other federal agencies and its partners across the nation to continue to protect human health and the environment under future climate conditions, with a particular focus on advancing environmental justice."

As one example, the updated Denver-based Region 8 plan that will be implemented in its six states (Colorado, Wyoming, Utah, Montana, North Dakota, and South Dakota) includes five elements:

- Designation of a senior career leader responsible for overseeing climate adaptation activities in EPA Region 8.
- Updated climate vulnerability assessment specific to EPA Region 8.

- Priority actions that will be taken by EPA Region 8 to address the agency-wide priorities identified by EPA's agency-wide 2021 climate adaptation action plan.
- A training plan for enhancing staff knowledge about climate adaptation.
- Identification of science needs.

State and Local Plans

States and communities in the U.S have begun to prepare for climate changes. The Georgetown Climate Center tracks the development of state and local plans at its <u>adaptation clearing house</u>; the content for which is focused on the resources that help policymakers at all levels of governments reduce or avoid the impacts of climate change to communities in the United States. Content focal areas for the clearing house include water, coastal, transportation, infrastructure and public health sectors, and adaptation planning, policies, laws, and governance.

Follow the Money

The real issue is actually providing the money to implement the adaptation plans; and the reality does not fit the dream. Again, quoting from John Doerr's book:

Investors and governments are stepping up. But we'll need a lot more funding, from both public and private sectors, to develop and scale technologies for a clean economy. Most of all, we'll need to divert the trillions spent on dirty energy over to clean energy options, and use that energy more efficiently.

As shown in the UNEP's Adaptation Gap Report 2022:

- Current adaptation practice falls woefully short of what is required.
- Adaptation implementation is increasing but not keeping up with climate impacts.
- Global efforts in adaptation planning, financing and implementation continue to make incremental progress but fail to keep pace with increasing climate risks.
- Adaptation actions remain largely incremental in nature, typically do not address future climate change, and may reinforce existing vulnerabilities or introduce new risks, particularly for the most vulnerable.

In addition, although the U.S., Canada, Australia, Britain, and Japan committed over 10 years ago to giving \$100 billion a year by 2020 to poor nations for climate

adaptation and mitigation projects, walking the talk doesn't follow; shortfalls number in the tens of billions.

In response, and on November 8, 2022, COP27 launched a global plan to help the world's poorest communities withstand the impacts of global warming. In total, the plan seeks to mobilize up to \$300 billion a year from private and public investors.

At the federal level in the U.S., the Inflation Reduction Act (IRA) signed by President Biden on August 16 is described as the largest climate legislation in U.S. history. The statute provides \$369 billion in climate and clean energy provisions in the form of tax credits, incentives, and other provisions intended to address climate change, increase investments in renewable energy and enhance energy efficiency such as:

- Tax credits for solar, wind, storage, and critical minerals;
- Funding to accelerate energy research;
- Credits for making wind turbines, solar panels, and clean technologies;
- Credits, grants and loans for clean vehicle manufacturing and adoption, biofuels, and sustainable fuels; and
- Credits for carbon capture and sequestration, methane reduction programs, low-carbon materials, and buildings.

As one author complains, however, here is some of what the IRA doesn't do:

- Halve US emissions by 2030 (the amount pledged by the U.S. in the Paris Agreement);
- Provide the raw minerals and materials needed for clean energy technologies);
 and
- Overcome the challenges of siting and connecting new clean energy sources to the grid.

Coming full circle, then: the certainty: more regulation; more restrictions on carbon emissions; more attention to enhanced best management practices that will be policed with a magnifying glass by regulatory agencies.

All of which begs the question: will words translate to actions?

This post was drafted by <u>John Watson</u>, an attorney in the Denver, Colorado office of Spencer Fane LLP. For more information, visit <u>www.spencerfane.com</u>.

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