

October 31, 2018

Volume 17, Issue 42



Subnational Efforts to Combat Climate Change in the Wake of the Recent IPCC Call to Action

By John A. Lee, John F. Parker, and Joseph J. Welter



As the federal government cuts back efforts to limit greenhouse gas emissions (GHG), local

governments and businesses are stepping up to meet the challenge. Following the October release of the Intergovernmental Panel on Climate Change (IPCC) global warming report and the September Global Climate Action Summit, this article will look at what is at stake in regard to the Paris Agreement goal of holding atmospheric warming to 1.5°C, the role that subnational actors could play in meeting that goal, and the likelihood that such efforts can contribute to reducing GHG emissions to limit warming to 1.5°C.

The Paris Agreement and the IPCC Report

Efforts by cities, states, and businesses to fill in the gap

left by reductions in federal efforts to limit GHG emissions, such as the planned repeal of the Clean Power Plan, take on additional urgency in the wake of the October 8, 2018, release of the Intergovernmental Panel on Climate Change report, Global Warming of 1.5°C, Summary for Policymakers (IPCC report), which issued a drastic call to action to the world to try to limit mean anthropogenic global warming to 1.5°C above preindustrial levels to avoid potentially irreversible and catastrophic threats to human societies and the global environment. The IPCC report, which was prepared as a specific follow-up to the Paris Climate Conference, presents the latest scientific consensus on the potential impacts of a 1.5°C warming of the atmosphere, as well as the different ways by which the global rise in temperature could be limited to 1.5°C. The Paris Agreement committed the 195 signatory nations "[to hold] the increase in the global average temperature to well below 2°C above pre-industrial levels and [pursue] efforts to limit

the temperature increase to $1.5 \,^{\circ}$ C above pre-industrial levels." To date, the best estimate is that as of 2017, the average global temperature has warmed by $1.0 \,^{\circ}$ C.

As part of the Paris Agreement commitments, each signatory nation pledged to reduce GHG emissions by a specified amount known as the nation's "nationally determined contribution" (NDC). The NDC for the United States, for example, is a pledged reduction in GHG emissions by 26-28 percent below its 2005 level by 2025. Critically, even if every nation fulfills its NDC, these pledges *are not on track to limit global warming to 1.5°C*. Much more action is needed.

To stabilize warming to 1.5°C by 2040, (the year that average global warming is projected to reach 1.5°C), the IPCC report calls for drastic transformative global action, stating: "Pathways limiting global warming to 1.5°C with no or limited overshoot would *require rapid and far-reaching transitions in energy, land, urban and infrastructure (including transport and buildings), and industrial systems.*" (Sec. C2). To reach such a goal, the following noteworthy actions, among others, will be required:

- Renewables would need to supply 70-85 percent of electricity by 2050 (Sec. C2.3);
- The use of coal would be reduced to close to 0 percent (Sec. C2.3); and
- Urban and infrastructure system transition would require changes in land and urban planning practices, as well as deep emission reductions in transport and building (Sec. C2.4).

Essentially, net CO2 emissions *globally* must be reduced to zero through a combination of "supply-side" (energy source) and "demand-side" (energy use) techniques in the next 30 years.

Subnational Efforts to Reduce GHG Emissions

In anticipation of the recently completed Climate Action Summit, a report prepared by the NewClimate Institute for Climate Policy and Global Sustainability entitled, *Global Climate Action from Cities, Regions, and Businesses* (NewClimate Institute study), evaluated the efforts of more than 6,000 cities, states, and regions in nine high-emitting countries—Brazil, China, India, Indonesia, Japan, Mexico, Russia, South Africa, and the United States—and the European Union, along with the efforts of more than 2,000 companies, to determine the impact that these respective efforts could have on the ability of these nations to meet their respective NDCs. The NewClimate Institute study also evaluated "international cooperative initiatives, where regions, states, cities, [and] businesses—frequently in partnership with national governments and civil society collectively commit to climate goals."

From this analysis, the NewClimate Institute study concluded that

[t]he initial results presented in this report suggest that individual city, state, region and business commitments represent a significant step forward in bringing the world closer to meeting the long-term temperature goals of the Paris Agreement, but it is still not enough to hold global temperature increase to "well below 2°C" and work "towards limiting it to 1.5°C." (Page 8).

This conclusion, of course, came with the following significant caveat. The above reduction in CO2 emissions are possible "if the recorded and quantified commitments by regions, cities and businesses are fully implemented and if such efforts do not change the pace of action elsewhere." (Page 8). Concerning the United States, as reported in the NewClimate Institute study, over 500 cities, 22 states, and 900 companies in the United States have made commitments to reduce GHG emissions or to undertake other climate commitments. Taking into account commitments by these parties to international cooperative arrangements, in addition to the reported national commitments, potentially could bring U.S. emissions to below NDC targets. (Page 59).

To keep the global average temperature increase below 1.5°C by 2040 will require an unprecedented societal effort. The commitments made by subnational actors worldwide provide a crucial step toward that goal, (*if implemented*), especially as U.S. federal efforts to reduce GHG emissions lag. That potential, however, is tenuous.

John A. Lee is a partner in the Chicago office of Goldberg Segalla. With an extensive background in environmental science—including a master's degree in meteorology—and 20 years of experience as a trial and appellate civil litigator, Mr. Lee represents clients on matters as diverse as multiparty coverage disputes, million-dollar environmental site remediations, PCB, asbestos, and lead exposure claims, alleged construction negligence, and premises and professional liability.

John F. Parker is the vice chair of Goldberg Segalla's Environmental Practice Group and a partner in the firm's New York office. With more than 25 years of experience defending clients across the country in complex environmental and toxic tort matters, Mr. Parker serves the legal needs of product manufacturers, general contractors, and others on issues of liability and damages. He routinely litigates civil and administrative environmental matters such as cost recovery actions, citizen suits, and enforcement proceedings relating to all aspects of environmental law.

Joseph J. Welter is chair of Goldberg Segalla's Toxic Tort and Environmental Practice Groups, practicing out of New York City and Buffalo. His areas of focus include cases involving alleged exposure to asbestos, Legionella bacteria, excess zinc, adulterated food, benzene, and lead paint. With nearly three decades of experience successfully defending the interests of companies and insurers across the country, Mr. Welter is a leading attorney in the environmental and toxic tort industries and a nationally recognized lecturer and author on emerging toxic tort issues. He is a member of the DRI Toxic Torts and Environmental Law Committee.