



How New York is leading the way to reduce greenhouse gas emissions

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In the past 40 years, environmental protection has evolved from a peripheral concern to a driving force in the policies of every level of government. Most real estate legal practitioners are well aware of the intersecting and overlapping regulations set forth by federal, state and local governments. However, in addition to this existing framework, states and municipalities have also begun to enter into regional environmental initiatives, which attempt to address problems far-reaching such as air quality and global warming.

New York, in particular, has taken a leading role in the Northeast United States with respect to greenhouse gas emissions. In 2007, New York became a member of the Regional Greenhouse Gas Initiative (RGGI), which seeks to achieve a ten percent reduction in greenhouse gas emissions by 2019. The RGGI focuses on electricity generators and will implement a cap-and-trade system for CO2 emissions. Upon implementation of the plan, New York will cap the permissible amount of emissions at the projected 2009 level and auction off all emissions credits up to that amount. Then, beginning in 2015, New York will reduce the number of emissions credits sold by two and one half percent per year.

In addition to regional coalitions of states that agree to regulate for a common environmental purpose, individual municipalities are banding together in an attempt to tackle global environmental problems. Various cities and counties across New York, including New York City, Suffolk County, Syracuse and Buffalo, have become members of ICLEI, an international organization comprised of local governments that seeks to reduce greenhouse gas emissions. Municipalities who are members of ICLEI commit to reaching five milestones: (1) to inventory current emissions, (2) adopt an emissions reduction goal, (3) develop a local action plan, (4) implement emission reduction measures, and (5) monitor and verify results. ICLEI then provides technical support, best practice examples, and policy templates in order to assist committed municipalities to reach their milestones. The RGGI and ICLEI represent a new approach in addressing global environmental problems through divergent and overlapping coalitions. In addition to addressing perceived environmental problems that are not the subject of federal regulation, these regional and local plans allow for the opportunity to develop innovative techniques and monitor their effectiveness during real world application. The problem, however, is that individuals and businesses will often not restrict themselves to one geographic area and, as they expand to new geographic areas, they will have to learn about the governing local policy and customize their business practices in order to comply.

The additional burden of learning about a region or a municipality's greenhouse emissions policy may be no more significant than the current environmental restrictions imposed by individual states or the zoning restrictions that are imposed by municipalities. But the decision of regional coalitions

and municipalities to design their policy to address global environmental concerns represents a significant departure from the traditional justification of state environmental regulation and zoning as methods to protect the health, safety and welfare of the members of state and local residents. As regional environmental agreements and individual municipal policies begin to go into effect and impose affirmative obligations concerning CO2 emissions, it is likely that there will be more discussion about whether this is the proper role of state and local governments or if they have exceeded the grant of power provided to them by their citizens. But in the meantime, those individuals and businesses which may be affected by these programs should be mindful of the existence of these regional and international groups and consider the affect that such regulations would have on their ongoing and future business ventures.

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