

# Limited Resources Should Be Used Strategically

BY ROBERT W. WHETZEL, ESQ.

IN NOVEMBER 2021, the State of Delaware issued its climate action plan (the “Climate Plan”) after a process of workshops, surveys, and review of comments from stakeholders. The Climate Plan follows a series of specific actions to address climate issues in Delaware, including enactment of the Renewable Energy Portfolio Standards Act; participating in the National Clean Diesel Campaign; signing a Declaration of Intent with neighboring states to create the Transportation and Climate Initiative; membership in the Regional Greenhouse Gas Initiative; and several Executive Orders directing state agencies to take actions to address greenhouse gas emissions, energy efficiency, and resiliency.

The Climate Plan focuses on the minimization of greenhouse gas emissions and maximization of resilience to the impacts of climate change. To reduce greenhouse gas emissions, the Climate Plan identifies several areas for action, including increased use of clean and renewable energy, increased use of energy efficiency measures, and emissions reductions from the transportation sector. Specific recommendations include strengthening Delaware’s Renewable Energy Portfolio Standards, ensuring that Delaware is prepared for offshore wind energy opportunities, strengthening building codes for energy efficiency, and improving industrial energy efficiency.

To maximize resilience, the Climate Plan identifies a wide-ranging set of actions, including measures to protect and conserve resources, resources and training for communities and stakeholders, a management plan for natural resources and emergency response, and agency support to implement resilience actions. The Climate Plan recommends updates to regulatory processes to include climate change impacts in permitting and regulatory actions, as well as the wetlands and subaqueous lands permitting process. It also suggests development of a climate resilience playbook to contain model ordinances for resilience strategies at the county and municipal levels, and assisting communities to practice



executing emergency response plans.

Although the Climate Plan is fairly comprehensive, it remains largely aspirational with most of the implementation details to be developed. From the perspective of the business community, it is crucial that the State use its limited resources in the most efficient way possible to achieve the objectives in the Climate Plan. Delaware is very small and has a relatively tiny impact on global greenhouse gas emissions. Although emissions reductions will be a significant component of the Climate Plan going forward, specific emissions reduction proposals should be evaluated with costs and benefits in mind. In some cases, Delaware’s resources may be better spent on infrastructure improvements and increasing resiliency to address expected sea level rise and increased precipitation and flooding.

As noted in the Climate Plan, stakeholder involvement is critical to the development and adoption of successful regulatory programs, as is input from the business sectors that will be impacted by new requirements. New legislation or regulation should provide certainty and predictability to the impacted stakeholders if the Climate Plan’s goals are to be achieved. Recent legislative initiatives—although well intentioned—fell short of the goals of clarity, predictability, and stakeholder engagement. Delaware can and should do better. ■

*The purpose of these articles is to provide the platform for two perspectives to be shared. The views expressed in this article are those of the author and not necessarily those of Richards, Layton & Finger or its clients.*



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