Climate Change Mitigation:
Legislative and Regulatory Framework

Advancing American Competitiveness through Conformity Assessment
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Legislation

- House Passed Waxman-Markey 2009
- Senate action stalled
- No bill this session
- No comprehensive climate change legislation in 2010
- Prospects for passage 2011-2012 limited
EPA Regulation

- Greenhouse gas (GHG) reporting rule
  - Effective 1/1/2010
- Endangerment finding
  - 12/7/2009
  - Mobile sources
  - Effectively broader
- GHG rule for autos and light duty trucks
  - 3/2010
  - Proposed rule for heavy duty trucks
• Prevention of significant deterioration (PSD) tailoring rule
  – Final rule 5/2010
  – Raises permitting threshold from 250 tons/year to 100,000 tons/year (new)
  – Modified sources – increase in GHG emissions of 75,000 tons/year
  – Reduces regulated entity universe from > 1 million to ~ 14,000
  – Legal authority is questioned
EPA Regulation

- State implementation rule (PSD)
  - 8/2010
  - Planned effective date 1/2/2011
  - 14 states may not be able to implement

- Renewable fuels standard
  - 4/2010
  - Minimum renewable fuels volume = 12.95 billion gallons (7.5 bg in original statute)
  - 6.5 million gallons cellulosic
  - 1.15 bg biomass-derived diesel
  - Fuels must meet life-cycle GHG reduction standards
Securities and Exchange Commission Regulation

• Material physical, regulatory, and litigation risks from climate must be disclosed (Regulation S-K Management description and analysis)

• SEC Guidance
  – 1/27/2010
Securities and Exchange Commission Regulation

- Directs companies to consider the potential implications of climate change in four specific areas:
  - How regulation and legislation pertaining to climate change or environmental protection, including potential positive impacts on the company, might affect business operations;
  - The possible effects of international treaties, specifically those associated with governing greenhouse gas emissions;
  - Indirect consequences of regulation, such as reduced demand for greenhouse-gas-producing products, or higher demand for products with lower emissions than competitor products; and
  - The physical impacts of climate change.
Securities and Exchange Commission Regulation

• Disclosure of “Strategic Analysis of Climate Risk & Emissions Management”
  – Historical direct and indirect emissions
  – Current direct and indirect emissions; and
  – Estimated future direct and indirect emissions of greenhouse gases from their operations, purchased electricity, and products/service

• Some emissions information reported voluntarily to states, EPA, GRI, etc. “may be required to be disclosed” in SEC filings
For further information

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