

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

EPA Regulation

- **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**

<http://www.sec.gov/rules/interp/2010/33-9106.pdf>

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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