



Davis Wright
Tremaine LLP

DEFINING SUCCESS TOGETHER

CLIMATE CHANGE REGULATION – A THREE-RING CIRCUS

Craig Gannett

- Congress
- Obama Administration
- Courts

Anchorage
Bellevue
Los Angeles

New York
Portland
San Francisco

Seattle
Shanghai
Washington, D.C.

www.dwt.com

Congress

- Waxman-Markey has passed House
 - Reduce greenhouse gases (GHGs) by 80% below 2005 levels by 2050
 - Regulates all sectors of the economy
- In Senate, Kerry-Boxer bill introduced last week
- Prospects for enactment uncertain

Obama Administration

- EPA has issued GHG reporting rule
- 25,000 tons and above; covers about 14,000 emitters
- First step to cap and trade
- EPA authority under Clean Air Act uncertain; draft Prevention of Significant Deterioration (PSD) rule issued Sept. 30

Courts

- Federal Court of Appeals ruled last week that significant emitters may be sued on common law nuisance grounds
- Court would impose cap and schedule for reductions on defendants
- Unless overturned, all significant emitters vulnerable to suit
- Puts pressure on Congress to act

Sideshow

- Western Climate Initiative
- State Regulation

What You Should Be Doing Now

- Make sure EPA's new regulations don't apply to you
- Look for ways to reduce your GHG emissions
- Record your efforts and results
- Look for Recovery Act opportunities