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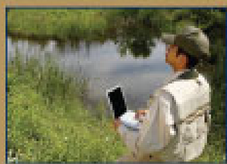

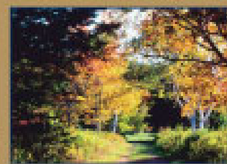

UPDATE:
Environmental & Utilities

APRIL 2010

ASTM International issues new Standard Guide for Financial Disclosures Attributed to Climate Change

In another of a series of recent developments regarding disclosures related to climate change, ASTM International issued its Standard Guide for Financial Disclosures Attributed to Climate Change (ASTM E2718-10) (the "Standard") on April 1, 2010. ASTM develops and publishes voluntary standards and guidelines for a wide range of materials, products, systems, and services. The new Standard, which had been widely circulated in draft, provides voluntary guidance that includes disclosure of financial impacts related to climate change in filings with the Securities and Exchange Commission ("SEC"). It follows on the heels of the SEC's related January 27, 2010 guidance, and provides guidance in connection with both the materiality analysis and, if warranted, the disclosure of climate risk. [1]

The Standard does not articulate a required formula for analysis and reporting but instead encourages consistent and comprehensive evaluation and disclosure of financial impacts related to climate change. Primarily, it "provide[s] a series of options or instructions consistent with good commercial and customary practice for climate change-related disclosures accompanying audited and unaudited financial statements." The degree and type of disclosure depends on the scope, objective, and circumstances surrounding the financial statements.

The Standard suggests that the first step in determining whether disclosure is warranted involves cataloging the major circumstances that might give rise to financial impacts. These circumstances may include enforcement actions or new regulations regarding climate change, changes or trends in resource costs, and contractual assumption of risk associated with global warming. If the potential impacts have a likelihood that is more than remote, that could have a severe impact on the entity, and that might occur in the near-term or within the next year, the Standard recommends disclosure. If a potential impact does not meet these criteria, however, disclosure still may be warranted even if the time horizon or levels of uncertainty are too great to allow meaningful estimation. The materiality of the financial impacts also should be evaluated in the aggregate to determine whether disclosure is required.

The Standard does not provide a bright-line rule or formula to determine whether to disclose a risk attributed to climate change. ASTM notes that it will not be possible to eliminate uncertainty regarding the financial impacts of climate change and cautions that subsequent disclosures should not be used to criticize previous disclosures. Finally, ASTM acknowledges that the costs to obtain information about the financial impacts of climate change should not outweigh the benefits of the information but recommends that a company examine all available information in assessing its reporting obligations.

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[1] For more information, please see Robinson and Cole's previous client update entitled "SEC Issues Guidance on Climate Change Disclosures," Feb. 2010, available at http://www.rc.com/newsletters/Publications/1875.pdf.

At Robinson & Cole, we have experienced environmental attorneys who understand the nexus between environmental and business obligations. For more information, please contact one of the following attorneys:

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