Climate Change Risk Analysis:

New Greenhouse Gas Standards
Raise the Financial Stakes for Manufacturers

By [redacted]

New federal and state standards enacted to address the perceived threat of man-made greenhouse gas (GHG) emissions are greatly increasing financial risks for manufacturers nationwide, particularly in the area of potential litigation. In fact, some legal scholars believe litigation costs in this area will dwarf the 1998 tobacco settlements. With financial stakes so high, manufacturers must take deliberate steps to understand the risks and mitigate them.

Lawsuits in the United States related to climate change almost tripled in 2010 over 2009. Further, the United States Supreme Court recently granted certiorari in the case of *American Electric Power Co. v. Connecticut*, a common law nuisance suit seeking an order compelling large electric utility companies to reduce their contributions to global climate change. This is the first climate change nuisance suit to reach the Supreme Court with the argument that climate change nuisance claims are cognizable under federal common law.

"The floodgates have opened," said [redacted], Director of the Center for Climate Change Law at Columbia Law School. "From being a marginal and even mocked issue, climate change litigation is fast emerging as a new frontier of law wherein some believe hundreds of billions of dollars are at stake."

In addition to the rising threat of environmental litigation, manufacturers' elevated risk exposure stems from numerous other factors, including changing federal and state environmental regulations, such as new Environmental Protection Agency regulations; new guidance from the Securities and Exchange Commission; the formation of regional compacts; state renewable energy portfolios that pass increased costs down to base loads; new state and federal procurement standards; state-specific actions, such as the sweeping California cap-and-trade program; international accords or treaties related to climate change; and increased shareholder activity.

Manufacturers must not only understand the risks, they must learn how to talk to their shareholders about them. "Ensuring investors are getting timely, material information on climate-related impacts, including regulatory and physical impacts, is absolutely necessary," said [redacted], DEO of the $200 billion California Public Employees' Retirement System.

The potentially catastrophic costs associated with these augmented risks include not only direct legal and litigation costs, but also lost opportunity costs associated with increased permitting risks, higher energy costs, loss of market share due to new and expanding procurement

standards, loss of investment due to greater scrutiny of corporate standards, and loss of reputation.

[redacted], with Pegasus Capital Advisors, said managers who fail to factor environmental elements into their investment decisions are vulnerable to a blind side blow. "As natural resources become more precious…because there's more demand on them, businesses will use them more efficiently," said [redacted]. "Businesses that aren't in those categories now are getting beaten in the marketplace."

In today's business environment, prudent manufacturers will take immediate, deliberate steps to thoroughly investigate the newly enacted state and federal standards in the area of greenhouse gas emissions, and identify those that affect their particular businesses. These standards encompass a broad spectrum of legal, regulatory and operational factors. The risks associated with them are staggering. Grasping the intricacies of these standards can be a daunting task, but failing to do so could be disastrous.