# DISCLOSURE OF PRIVATE CLIMATE TRANSITION RISKS

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# What is Private Environmental Governance (PEG)?

(Vandenbergh, 2013)

- Traditional Conception: "The simplest definition of 'environmental law and policy' might read: 'the use of *public* authority to protect the natural environmental and human health from the impacts of pollution and development.'" SALZMAN & THOMPSON, ENVIRONMENTAL LAW AND POLICY (5th ed. 2019)(emphasis added)
- PEG Conception: PEG is the use of *private* authority. PEG occurs when private organizations play the traditionally governmental roles of reducing negative externalities, supplying public goods, managing common pool resources, and increasing distributional justice.

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# What is Private Environmental Governance (PEG)?

(Vandenbergh, 2013)

- Methods: Coercion, Resources, and Information
- Actor: Government → Private Organization
- Action: Law, Policy, Program → Private Initiative
- Examples
  - Marine Stewardship Council (10% of all fish),
  - Forestry Stewardship Council (14% of all lumber)
  - Environmental supply chain requirements (>50% of corporate buyers in 2006; >80% 2020)
  - Climate Change Mitigation & Adaptation

# Why Does PEG Occur? Business Drivers

- Reduce Government Regulation
- Shape Government Regulation
- Anticipate Government Regulation
- Raise Rivals' Costs

- Accelerate Efficiency
- Assure Supply
- Brand Reputation
- Retail Customers
- Corporate Customers
- Investors
- Lenders
- Insurers
- Employee Morale
- Manager Norms

# Disclosure of Climate Risks

- Types of Climate Risks -- SEC, TCFD, SASB, etc.
  - Physical Risks -- increasing sea level will submerge docks
  - Transition Risks – a carbon tax will reduce consumption of widgets
- Problem -- Most Lawyers, Business Managers, Accountants, Policymakers
  - Transition Risk = Regulatory Risk
  - Regulatory Risk = Government Statute/Regulation
- Missing – Private Climate Transition Risks

# Sources of Private Climate Transition Risks

- *Carbon Disclosure Project (CDP)* – ~10,000 companies have disclosed to CDP, which is supported by investors with $106 trillion in assets under management.
- *Initiatives* -- Over 2,700 Companies are involved in at least one of nine climate platforms *(Rocky Mountain Institute, 2017)*
- *Targets* --Over 2/3 of the S&P 100 have set climate or clean energy targets (Gardiner & Assoc., 2020)
- *Internal Carbon Taxes* – Over 1400 companies have an internal price on carbon. (Triple Pundit, 2017)
- *Corporate Renewables Commitments* – 260+ companies have committed to 100% renewable energy through the RE100 campaign. *(RE100, 2020)*
- *Investors* – Black Rock, KKR, Carlyle, CalPERS/CalSTERS, etc. have adopted climate policies; Climate Action 100+
- *Insurers* – Over 20 major insurers limit insurance sales to fossil-fuel intensive businesses

# Current SEC Disclosure Requirements 2010 SEC Climate Guidance

C. Indirect consequences of regulation or business trends.

Legal, technological, political and scientific developments regarding climate change may create new opportunities or risks for registrants. These developments may create demand for new products or services, or decrease demand for existing products or services. For example, possible indirect consequences or opportunities may include:

- Decreased demand for goods that produce significant greenhouse gas emissions;
- Increased demand for goods that result in lower emissions than competing products;
- Increased competition to develop innovative new products;
- Increased demand for generation and transmission of energy from alternative energy sources; and
- Decreased demand for services related to carbon based energy sources, such as drilling services or equipment maintenance services.

# Research Design

Michael P. Vandenbergh, *Disclosure of Private Environmental Governance Risks,* 63 WILLIAM & MARY L. REV. (forthcoming), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3764130

- A Snapshot, Not a Complete Empirical Study
- Assemble 10-Ks
  - Most Recent – As of 9/29/2020
  - Major Corporations -- Fortune 100
  - Oil & Gas (all in Fortune 100)
  - Coal
  - Electric Utilities
- Define PEG Disclosure Types
- Coding 10-Ks

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# Methodology

- Coding Categories
- General sources of PEG pressure. Disclosure of:
  - External advocacy group pressure
  - Public, reputation or brand pressure
  - Employee pressure
  - Investor pressure
  - Insurer pressure
  - Lender pressure
  - Supply chain contract pressure.
- Specific PEG climate initiatives. Disclosure of participation in or pressure from:
  - CDP
  - Science-based Target Initiative (SBTi)
  - Climate Action 100+.

# Results

- Frequency of Disclosure
  - Fortune 100 – 33/100
  - Oil & Gas – 5/5 (all in Fortune 100)
  - Coal – 5/5 (none in Fortune 100)
  - Utilities – ~1/5 (none in Fortune 100)

# Examples of Recent Disclosures

- *Differences Between Sectors*:
  - Five largest coal companies: Investors and lenders are responding to climate change by creating pressure to reduce the use of coal.
  - Five largest electric utilities: Essentially nothing on this topic.

- *Differences Within Sectors*:
  - PepsiCo: faces risks from the "increased focus, including by governmental and non-governmental organizations, investors, customers and consumers on . . . environmental sustainability matters including deforestation, land use, climate impact," and from "any failure to achieve our goals with respect to reducing our impact on the environment or perception (whether or not valid) of our failure to act responsibly with respect to the environment."
  - The Coca-Cola Company: Nothing on this topic.

# Results

- Variability
  - Intra-Sector
    - Utilities – 1 +/- yes, 4 no
    - Automotive – GM yes, Ford no
    - Banks—3 yes/4 no
    - Insurance—1 yes (AIG)/6 no
    - Tech—1 yes (Google)/2 no (Facebook, Apple)
  - Inter-Sector
    - Fossil Fuels 5 yes, Utilities 4 or 5 no

# Challenges, Disclaimers & Caveats

- Paper: *Disclosure of Private Environmental Governance Risks,* 63 WILLIAM & MARY L. REV. (forthcoming), at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3764130
- Discrete Phenomenon?
- Coding?
- Excluded Factors?
- Implications for Other Large Firms?
- Implications for Smaller Public Firms?
- Questions?

# Results

**Sectors with No PEG Climate Disclosure (20 sectors / 44 firms)**

| Sector | Number of Firms in Sector |
|---|---|
| Aerospace and Defense | 5 |
| Apparel | 1 |
| Beverages | 1 |
| Chemicals | 1 |
| Construction and Farm Machinery | 2 |
| Diversified Financials | 4 |
| Electronics, Electrical Equipment | 1 |
| Entertainment | 1 |
| Food and Drug Stores | 4 |
| Health Care: Insurance and Managed Care | 4 |
| Health Care: Medical Facilities | 1 |
| Health Care: Pharmacy and Other Services | 2 |
| Information Technology Services | 1 |
| Insurance: Life, Health | 5 |
| Network and Other Communications Equipment | 1 |
| Pharmaceuticals | 4 |
| Utilities | 1 |
| Wholesalers: Electronics and Office Equipment | 1 |
| Wholesalers: Food and Grocery | 1 |
| Wholesalers: Health Care | 3 |

# Results

## Sectors with PEG Climate Disclosure by All Firms (10 sectors / 20 firms)

| Sector | Number of Firms in Sector |
|---|---|
| Airlines | 3 |
| Energy | 1 |
| Food Consumer Products | 1 |
| Household and Personal Products | 1 |
| Industrial Machinery | 1 |
| Mail, Package and Freight Delivery | 2 |
| Mining, Crude Oil Production | 1 |
| Petroleum Refining | 5 |
| Semiconductors and Other Components | 1 |
| Specialty Retailers | 4 |

# Results

**Sectors with Mixed PEG Climate Disclosure (10 sectors / 36 firms)**

| Sector | Firms in Sector/Firms Disclosing PEG |
|---|---|
| Banks: Commercial and Savings | 7 |
| Computer Software | 2 |
| Computers, Office Equipment | 3 |
| Food Production | 2 |
| General Merchandise | 3 |
| Insurance: Property and Casualty | 8 |
| Internet Services and Retailing | 3 |
| Motor Vehicles and Parts | 2 |
| Pipelines | 2 |
| Telecommunications | 4 |