

SEC FINALIZES CLIMATE RULES

MARCH 2024

SUMMARY

The SEC adopted its highly anticipated rules to enhance and standardize climate-related disclosures and require registrants to report information on greenhouse gas (GHG) emissions, climate-related risks, and financial metrics in registration statements and annual reports. The rules apply to all registrants and offer phased-in compliance dates dependent on a registrant's filer status. Certain key provisions, such as reporting Scope 3 GHG emissions, required financial statement disclosures, and the phase-in period for compliance significantly differ from the proposed rules.¹

The final rules require:

- ▶ Disclosures in the audited financial statements about the impact of severe weather events and other natural conditions to a registrant's financial statements, including quantitative disclosures of expenses, losses, capitalized costs and charges related to such events, aggregate amounts of carbon offsets, and renewable energy credits (RECs), as well as qualitative disclosures about the estimates and assumptions materially impacted by such events.
- ▶ Disclosures of material GHG emissions from direct (Scope 1) and indirect (Scope 2) activities of large accelerated filers (LAFs) and accelerated filers that are not smaller reporting companies (SRCs) or emerging growth companies (EGCs) (AFs). Scope 1 and Scope 2 GHG emissions disclosures are subject to attestation requirements.
- ▶ Qualitative disclosures about the registrant's climate-related risks, including board oversight and governance, and management's process to identify, assess, and manage such risks.

DISCLOSURE REQUIREMENTS

Audited Financial Statements

The amendments introduce new Article 14 of Regulation S-X, *Disclosure of Severe Weather Events and Other Information*. The final rules require quantitative and qualitative information related to "severe weather events and other natural conditions" (hereinafter referred to as "severe weather and conditions") in a footnote to the registrant's annual audited financial statements. Accordingly, such disclosures are subject to a registrant's internal control over financial reporting. While registrants must apply the same accounting principles used in the preparation of their consolidated financial statements, processes, procedures, and controls must be designed and implemented to ensure information related to these events is captured and considered for disclosure.

¹ For key differences between the final and proposed rule, see [Appendix B](#).

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WHAT SEVERE WEATHER AND OTHER CONDITIONS TRIGGER DISCLOSURE?	WHAT INFORMATION MUST BE DISCLOSED? ²	FOR WHAT PERIODS IS DISCLOSURE REQUIRED?
<p>While not all-inclusive, severe weather and conditions include hurricanes, tornadoes, flooding, drought, wildfires, extreme temperatures, rising sea levels, and earthquakes.³ Registrants are not required to determine whether any of the severe weather or conditions were caused by climate change for the purpose of making the required disclosures and may need to apply judgment in their consideration of what constitutes severe weather or conditions based on the specific risks they face, including their geographic location and historical experience, among other factors.</p>	<p>The financial statement categories of disclosure include:</p> <ul style="list-style-type: none"> ▶ Aggregate amounts of expenses, losses, capitalized costs, and charges related to severe weather and conditions ▶ Accounting policies for and aggregate amounts of carbon offsets and RECs ▶ Financial estimates and assumptions materially impacted by severe weather and conditions ▶ Contextual information about financial statement effects, estimates and assumptions, and accounting policies, including the aggregate amounts of insurance recoveries related to any disclosed expenses, losses, capitalized costs, and charges 	<p>Disclosure must be provided for the most recently completed fiscal year in the first year disclosure is required. For subsequent filings, registrants must present their prior Article 14 disclosures that relate to historical annual periods presented in the financial statements and included in the filing.</p>

Expenses, Losses, Capitalized Costs, and Charges

Registrants must disclose the following amounts related to severe weather and conditions:

- ▶ Aggregate expenses and losses (excluding recoveries) that exceed 1% of the absolute value of income or loss before income taxes for the fiscal year, subject to a de minimis threshold of \$100,000.
- ▶ The absolute value of aggregated capitalized costs and charges that exceed 1% of the absolute value of stockholders' equity or deficit at the end of the fiscal year, subject to a de minimis threshold of \$500,000.

Examples of expenses and costs related to severe weather include those related to impairment, restoration, relocation, and repairs.

Registrants must disclose where such expenses or losses and capitalized costs or charges are presented in the income statement or balance sheet.

Article 14 includes an attribution principle to assist registrants with their determination of whether expenses, losses, capitalized costs, and charges relate to severe weather or conditions. Registrants must attribute such expenses, costs, and charges to severe weather event or condition when such event or condition is a "significant contributing factor" in incurring the cost, expense, or charge.

Carbon Offsets and Renewable Energy Credits

When carbon offsets or RECs are a material component of a registrant's plan to achieve its disclosed climate-related targets or goals, the aggregate amount of (1) capitalized costs (2) expenses and (3) losses related to the purchase and sale of carbon offsets and RECs must also be disclosed. Such disclosures are not subject to a 1% or de minimis threshold and must be accompanied by disclosure of:

- ▶ The registrant's accounting policy(ies) for carbon offsets and RECs
- ▶ The beginning and ending balances of capitalized amounts for carbon offsets and RECs on the balance sheet

Like disclosures for weather-related expenses and losses, registrants must disclose where the carbon offsets and RECs are reported in the income statement and balance sheet, as applicable.

² In response to feedback on the proposal, the SEC did not finalize the proposed Article 14 requirements that would have required registrants to disclose the climate-related impacts on each financial statement line item when they exceeded 1% of the line item.

³ Footnote 2091 of the adopting release cites earthquakes as an example of "natural conditions" that may require disclosure when they are severe, depending on the registrant's particular facts and circumstances.

Financial Estimates and Assumptions

Registrants must qualitatively describe how their financial estimates and assumptions were affected by known impacts or risks and uncertainties related to severe weather and conditions, or any disclosed climate-related targets or transition plans, when such impact is material.

Contextual Information

Contextual information that must accompany the financial disclosures required by Article 14 includes:

- ▶ How the financial statement effect was derived and other information that is important to understand such effect
- ▶ A description of the significant inputs, assumptions, and judgments made to determine the amounts disclosed
- ▶ Accounting policy decisions, if applicable
- ▶ Aggregate insurance recoveries recognized during the period and where they are presented in the income statement and balance sheet, when the registrant discloses information about expenses, losses, capitalized costs and charges

Contextual information may also include disclosure of the specific severe weather events, natural conditions, and transactions for which financial disclosures were required.

Climate-Related Disclosure

New Subpart 1500 of Regulation S-K, *Climate-Related Disclosure*, requires registrants to disclose material climate-related expenditures, climate-related risks and impacts on its strategy, business, and outlook, climate-related targets and goals (if any), as well as its governance and management of climate-related risks. AFs and LAFs must disclose material GHG emissions metrics. Registrants may include the climate-related disclosures in existing sections of the filing, or in a separately captioned “Climate-Related Disclosure” section.⁴ Such disclosures are subject to the registrant’s disclosure controls and procedures.

Materiality

The materiality evaluation for climate-related disclosures (including GHG emissions) is consistent with the evaluation of any other event or risk that a registrant may face. Accordingly, a disclosure is material if “there is substantial likelihood that a reasonable shareholder would consider it important” or if it would have “substantially altered the ‘total mix’ of information made available from the perspective of a reasonable investor.” Considerable judgment may be required in the materiality determination; registrants must consider all relevant facts and circumstances, including both quantitative and qualitative factors.

GHG Emissions

AFs and LAFs must separately disclose material Scope 1 (direct) and Scope 2 (indirect) GHG emissions (expressed in terms of carbon dioxide equivalent, or “CO₂e”), and each material GHG type. GHG emissions must be presented gross and exclude any offsets purchased or generated by the registrant. Scope 1, Scope 2, and GHGs are defined as:

- ▶ Scope 1: direct GHG emissions from sources owned or controlled by the registrant
- ▶ Scope 2: indirect GHG emissions from the activities of the registrant, such as the generation of purchased or acquired electricity, steam, heat, or cooling
- ▶ GHGs: carbon dioxide, methane, nitrous oxide, nitrogen trifluoride, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride

Registrants must describe their methodology, significant inputs and assumptions, and protocol or standard used to compute the GHG emissions disclosures. Additionally, registrants must disclose the organizational boundaries used to calculate Scope 1 and Scope 2 GHG emissions, along with the method used to determine the boundaries, and an explanation of any material differences between the boundaries and scope of entities and operations included in the consolidated financial statements.

GHG emissions disclosures are presented for the most recently completed fiscal year, and, if previously required to be disclosed, for the historical years presented in the financial statements. For example, in the first year disclosure is required, only the most recent fiscal year must be disclosed; in the second year, the most recent fiscal year and the prior fiscal year must be disclosed; in the third year, all historical years presented in the financial statements must be disclosed.

⁴ Registrants may incorporate by reference disclosures from other parts of the filing, or, if eligible, other filed or submitted reports.

GHG Emissions Due Date

The GHG emissions disclosures are due no later than the due date of the registrant's second quarter Form 10-Q, or for foreign private issuers (FPIs) that do not use domestic forms, no later than 225 days after their fiscal year end. A registrant that does not include GHG emissions disclosures in its Form 10-K may comply with the due date by filing an amendment to Form 10-K or incorporating the information by reference from its second quarter Form 10-Q (an FPI that does not use domestic forms may file an amendment to its Form 20-F).

In registration statements, GHG emissions disclosures must be included (or incorporated by reference) for the most recently completed fiscal year that is within 225 days of the date the registration statement is effective. For example, if a calendar year-end LAF's registration statement is effective on September 5, 2028, it must include GHG emissions disclosures for fiscal year 2027; if the registration is effective on August 3, 2028, it must include GHG emissions disclosures for either fiscal year 2026 or fiscal year 2027.⁵

GHG Emissions Attestation Requirements

AFs and LAFs must obtain (and include in the filing) an attestation report over their Scope 1 and Scope 2 GHG emissions disclosures as follows:

- ▶ LAFs - limited assurance for fiscal years beginning in 2029, and reasonable assurance for fiscal years beginning in 2033
- ▶ AFs - limited assurance for fiscal years beginning in 2031

The attestation provider must be an expert in GHG emissions and independent with respect to the registrant (but the provider is not required to be a registered public accounting firm).⁶

Incremental disclosures about the provider are required, including whether the engagement and provider is subject to any oversight inspection program, and any changes in or disagreements with the attestation provider (similar to the disclosure requirements in Item 4.01 of Form 8-K and Item 304 of Regulation S-K), amongst others.

See [Appendix A](#) for additional requirements when a registrant obtains voluntary assurance over its GHG emissions disclosures or includes or incorporates by reference the assurance report in its Securities Act registration statement.

Risks and Impacts

Material Impacts

Registrants must disclose climate-related risks that have had or are reasonably likely to have a material impact on their business strategy, results of operations, or financial condition, along with their plan to address the risks. Risks expected to impact the registrant in the short-term must be described separately from those expected to impact the registrant in the long-term. Climate-related risks must be identified as either physical or transition risks.

- ▶ Physical risk disclosures must include:
 - Whether the risk is chronic or acute
 - The geographic location of properties, processes, and operations subject to the risk
- ▶ Transition risk disclosures must include:
 - The nature of each risk (for example, regulatory, technological, market-related, or other)
 - How each risk impacts the registrant

Climate-related risks, physical risks, and transitions risks are defined as:

⁵ If the registration statement's effective date is less than 225 days after its most recently completed fiscal year-end, the registrant is not required to disclose the GHG emissions for the prior fiscal year unless it was required to do so under S-K Item 1505 for that year (see footnote 1074 of the final rule).

⁶ GHG emissions attestation providers must comply with the independence requirements in S-K Item 1506 but are not required to separately comply with S-X Rule 2-01.

RISK	DEFINITION
Climate-related	▶ Climate-related conditions or events that have had or could have a negative impact on a registrant's business, results of operations, or financial condition
Physical	▶ Chronic and acute risks to a registrant's operations <ul style="list-style-type: none"> • Chronic - longer-term effects of weather patterns. Examples include temperature increases, drought, and a rise in sea levels. • Acute - shorter-term event driven risks. Examples include wildfires, hurricanes, tornadoes, floods, and heatwaves.
Transition	▶ The actual or potential negative impact to a registrant's business, results of operations, or financial condition due to climate-related regulatory policies or litigation, technology, and market conditions (such as changes in behavior and choices of consumers, investors, and employees). Examples include costs to comply with regulations and litigation, demand for carbon-intensive products or services, new technology, and reputational harm.

For each material climate-related risk identified, registrants must disclose information, if applicable, about transition plans, scenario analyses, and internal carbon price as follows:

- ▶ Transition plan - registrants that adopt a transition plan to manage a material transition risk must describe the plan. Examples of transition plans include planned reductions in GHG emissions to meet an internal, legal, or regulatory commitment. When describing the plan, registrants must disclose quantitative and qualitative information related to material expenditures incurred and material impacts to financial estimates and assumptions resulting from the plan.
- ▶ Scenario analysis - registrants that determine a climate-related risk is material using a scenario analysis must disclose the scenarios, along with the parameters, assumptions, analytic choices, and expected material impacts of each scenario.
- ▶ Internal carbon price - registrants that use internal carbon pricing to manage and evaluate material climate-related risks must disclose the CO₂e price per metric ton and total price, as well as how the expected change in total price over the time period the registrant expects the risk to materially impact them.

Targets and Goals

Registrants must disclose any climate-related targets or goals that have had or are reasonably likely to have a material impact on their business strategy, results of operations, or financial condition. Such disclosures include:

- ▶ The scope of activities related to the target
- ▶ The unit of measurement
- ▶ The timeframe to meet the target along with any progress made and how such progress was achieved
- ▶ The baseline used to track progress (if applicable)
- ▶ A description of the registrant's plan to meet the target and any actions taken to do so. Quantitative and qualitative information of any material expenditures and material impacts to financial estimates and assumptions must be disclosed for any actions taken that have or are reasonable likely to materially impact the registrant
 - Information about the use of carbon offsets or RECs (including their nature and source, costs, amounts of carbon reduction, avoidance or removal, and renewable energy generated, and any registries or other authentication, as well as the location and a description of the underlying projects) must be disclosed if such use is material to the plan

Registrants may rely on the safe harbor for forward-looking statements for disclosures based on estimates or assumptions of future events, rather than historical fact (such as transition plans, scenario analyses, and internal carbon pricing, as well as certain information about targets and goals).

Governance and Risk Management

Registrants must disclose their process to identify, assess, and manage material climate-related risks, including:

- ▶ How they identify physical or transition risks that are material or reasonably likely to be material to their business, results of operations, or financial condition
- ▶ How they prioritize whether to address the risk and decide whether to mitigate, accept, or adapt to the risk
- ▶ Management's role in the process, including the positions or committees responsible for assessing and managing risk and the nature of their expertise, and whether they report information to the board

Registrants must also describe the board's oversight of climate-related risks. If a board committee oversees such risk, registrants must identify the committee, the process to inform the board of the risks, and how the board oversees transition plans or progress toward a target or goal (when applicable).

COMPLIANCE DATES AND PHASE-IN PERIODS

The rules apply to all registrants, including FPIs,⁷ SRCs, and EGCs. However, certain filers are exempt from the disclosure and assurance requirements related to GHG emissions:

- ▶ SRCs, EGCs, and non-accelerated filers (NAFs) are exempt from all GHG emission disclosure and assurance requirements under S-K Items 1505 and 1506
- ▶ AFs are exempt from the reasonable assurance requirement of Item 1506

The disclosure requirements apply to registration statements on Forms S-1, F-1, S-3, F-3, S-4, F-4, S-11 and Forms 10 and 20-F and Annual Reports on Forms 10-K and 20-F. In a change from the proposal, the disclosure requirements will not apply to certain private companies that are part of a business combination transaction involving a securities offering on Forms S-4 and F-4.

The rules will take effect over a phased-in timeline determined by filer status and disclosure requirement, as outlined in the tables below.

Financial Statement Effects and Non-GHG Emission Disclosures

FILER TYPE	ALL REGULATION S-K AND S-X DISCLOSURES, EXCEPT GHG EMISSIONS AND THOSE NOTED IN THIS TABLE	S-K ITEMS 1502(D)(2) AND 1502(E)(2): CERTAIN TRANSITION PLAN DISCLOSURES S-K ITEM 1504(C)(2): CERTAIN DISCLOSURES ABOUT TARGETS AND GOALS	INLINE XBRL TAGGING OF S-K ITEM 1500 DISCLOSURES
LAFs	Fiscal years beginning (FYB) 2025	FYB 2026	FYB 2026
AFs (other than SRCs and EGCs)	FYB 2026	FYB 2027	FYB 2026
SRCs, EGCs, and NAFs	FYB 2027	FYB 2028	FYB 2027

⁷ However, Canadian registrants that use the Multi-Jurisdictional Disclosure System and file on Form 40-F are exempt.

Greenhouse Gas Emission Disclosures and Assurance Requirements

FILER TYPE	S-K ITEM 1505: SCOPES 1 AND 2 EMISSIONS DISCLOSURE	S-K ITEM 1506: LIMITED ASSURANCE	S-K ITEM 1506: REASONABLE ASSURANCE
LAFs ⁽¹⁾	FYB 2026	FYB 2029	FYB 2033
AFs (other than SRCs and EGCs) ⁽¹⁾	FYB 2028	FYB 2031	N/A
SRCs, EGCs, and NAFs	N/A	N/A	N/A

(1) In an initial filing, only the most recent year must be disclosed as the registrant was not subject to the reporting requirements of Section 13(a) or 15(d) of the Exchange Act during the prior historical periods.

Registrants must electronically tag both the qualitative and quantitative disclosures in Inline XBRL.

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[Final Rule](#)

[Fact Sheet](#)

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APPENDIX A - GHG EMISSIONS DISCLOSURES: VOLUNTARY ASSURANCE AND CONSENT REQUIREMENTS

Voluntary GHG Assurance

The disclosure requirements for registrants that voluntarily obtain assurance over their GHG emissions disclosures differ depending on the registrant's filer status, and for AFs and LAFs, whether assurance is obtained before or after certain compliance dates. Registrants that voluntarily obtain assurance over GHG emissions disclosures must comply with the requirements of Regulation S-K as follows:

FILER STATUS	AFTER GHG EMISSIONS DISCLOSURES REQUIRED BUT PRIOR TO ASSURANCE REQUIREMENT	AFTER ASSURANCE REQUIREMENT
AFs and LAFs	Item 1506(e) as detailed below	Item 1506(b) through (d) as detailed in section GHG Emissions Attestation Requirements . As an example, an AF or LAF that voluntarily obtains assurance over Scope 3 disclosures must follow these requirements and must use the same attestation standard as that required for the Scope 1 and Scope 2 disclosures
Non-accelerated filers, SRCs, or EGCs	Item 1506(e) as detailed below	Item 1506(e) as detailed below

Item 1506(e) of Regulation S-K

Registrants must disclose information about the services and provider, such as the identity of assurance provider and whether the assurance provider and services are subject to an oversight inspection program, the assurance standard used, the level, scope, and results of the assurance services, and whether the assurance provider has provided other professional services or has other business relationships with the registrant.

Consents Required

A registrant that includes or incorporates by reference an assurance report in its Securities Act registration statement may need to obtain a consent or letter acknowledging the use of the report from the assurance provider as follows:

ASSURANCE LEVEL	IS THE REPORT PREPARED OR CERTIFIED BY AN EXPERT WITHIN THE MEANING OF SECTION 11 OF THE SECURITIES ACT?	IS THE ASSURANCE PROVIDER REQUIRED TO PROVIDE A CONSENT?
Limited Assurance	No	No. The registrant must file (as an exhibit) a letter from the provider acknowledging their awareness of the use of their reports
Reasonable Assurance	Yes	The provider must provide a consent

APPENDIX B - KEY DIFFERENCES BETWEEN FINAL RULE AND PROPOSED RULE

DISCLOSURE AREA	KEY DIFFERENCES
GHG Emissions	<ul style="list-style-type: none"> ▶ Eliminated the requirement to disclose Scope 3 GHG emissions if material, or if the registrant set a GHG emissions reduction target or goal that includes its Scope 3 emissions ▶ Limited Scope 1 and Scope 2 GHG emissions disclosures to those that are material ▶ Narrowed the scope of GHG emissions disclosures to only apply to AFs and LAFs ▶ Reduced the assurance obtained over GHG emissions disclosures by AFs to limited assurance
Risk and Impacts	<ul style="list-style-type: none"> ▶ Eliminated certain disclosures related to physical risks, including location disclosure by ZIP code, as well as the percentage of certain assets located in areas with a flood or high-water stress related risk ▶ Eliminated the requirement to address climate-related risks in the “medium term” to focus the disclosures on the short-term and long-term, consistent with requirements in Item 303 of Regulation S-K ▶ Removed a registrant’s value chain from the definition of climate-related risk
Financial Statement Disclosures	<ul style="list-style-type: none"> ▶ Eliminated the requirement to disclose financial statement metrics (i.e., the impact of severe weather and other conditions and transition activities on each financial statement line item, subject to a 1% threshold) ▶ Significantly narrowed the scope of quantitative and qualitative disclosures required for transition activities to amounts expensed and capitalized for carbon offsets and RECs ▶ Eliminated the option to disclose the impact of climate and weather-related opportunities
Compliance Dates	<ul style="list-style-type: none"> ▶ Pushed back the compliance dates and allowed for longer phase-in periods for certain requirements and certain registrants