



Environmental Bankers Association (EBA) | 2900 Delk Road, Suite 700, PMB 321, Marietta, GA 30067 | [envirobank.org](http://envirobank.org)

MAY 27, 2022

VANESSA A. COUNTRYMAN, SECRETARY  
SECURITIES AND EXCHANGE COMMISSION  
100 F STREET NE  
WASHINGTON DC 20549-1090

Sent by U.S. Mail and email to:  
[rule-comments@sec.gov](mailto:rule-comments@sec.gov)

**RE: EBA COMMENTS ON THE DRAFT REGULATIONS/PROPOSED RULE  
"THE ENHANCEMENT AND STANDARDIZATION OF CLIMATE-RELATED DISCLOSURES FOR INVESTORS"  
FILE NUMBER S7-10-22**

DEAR MS. COUNTRYMAN:

Environmental Bankers Association (EBA) is a nonprofit trade association that represents the financial services industry, including bank and non-bank financial institutions, insurers, asset management firms and those who provide services to them. EBA provides a forum to promote the exchange of environmental risk management and sustainable development lending information and technical expertise.

Membership in the EBA is not limited to financial institutions. In addition to the financial sector our membership currently includes:

- property & casualty insurers and brokers,
- environmental consultants, appraisers and environmental information management firms
- environmental, real estate and trust attorneys

We assert that the EBA and its members have a particular expertise to provide these comments based upon our historical and current industry experience with environmental matters and the financial services industry.

**I. EBA COMMENTS TO SEC PROPOSED RULE REGARDING GREENHOUSE GAS EMISSIONS ATTESTATION PROVIDER REQUIREMENTS**

[See Section II. Discussion (H.) Attestation (pgs. 224-276)]

Under the proposed rules, a qualified Attestation provider is one that (1) has expertise in Greenhouse Gas (GHG) emissions based on significant experience measuring, analyzing, reporting, or attesting to GHG emissions and (2) is independent from the registrant, and any of its affiliates, for whom it is providing the Attestation Report. Although the proposed rules state that an Attestation provider need not be a registered public accounting firm, few Environmental, Social, and Governance (ESG) Public Accounting Firms are likely to have the requisite environmental knowledge and industry experience needed to perform the attestation to meet both the SEC's proposed standard and the company's expectation. In essence, the attestation requirements in the proposed rules will drive a major expansion in the marketplace, with the likely result that the universe of qualified Attestation providers with the required expertise in GHG calculations will lag the demand from regulated companies necessitated by the adoption of these rules.

The EBA believes that the expertise required to provide the competent attestation of the calculations/estimations of Scope 1, Scope 2 and Scope 3 GHG emissions currently lies with Environmental Consulting Companies. The

Environmental Consulting Companies have historically been retained by most companies for support in calculating/permitting/reporting air quality emissions, reviewing best available air quality control technologies (BACT) determinations, and performing needed air quality modeling. The Environmental Protection Agency (EPA) has historically relied upon the Environmental Consultant's reports as required documentation for all the EPA's air quality reporting regulations. The historical relationship of GHG emissions to the Environmental Consulting industry would indicate that Environmental Consulting Companies, and not Public Accounting Firms, should clearly be allowed to provide attestation for the SEC's proposed regulations.

Note that most public companies either have Environmental In-House expertise (or soon will have them) to facilitate company engagement with outside Attestation providers and SEC compliance staff. The presence of Environmental In-House expertise provides a reliable internal resource to ensure access to the expertise and associated external professional networks for GHG attestation and the Attestation Report. The Public Accounting Firms do not have the long-standing relationship with Environmental In-House expertise and the EPA.

#### **Responses to Questions Posed within the Proposed Rule**

***144. Should we require a registrant to obtain a GHG emissions attestation report that is provided by a GHG emissions attestation provider that meets specified requirements, as proposed? Should one of the requirements be that the attestation provider is an expert in GHG emissions, with significant experience in measuring, analyzing, reporting, or attesting to GHG emissions, as proposed? Should we specify that significant experience means having sufficient competence and capabilities necessary to: (a) perform engagements in accordance with professional standards and applicable legal and regulatory requirements and (b) enable the service provider to issue reports that are appropriate under the circumstances, as proposed? Should we instead require that the GHG emissions attestation provider have a specified number of years of the requisite type of experience, such as 1, 3, 5, or more years? Should we specify that a GHG emissions attestation provider meets the expertise requirements if it is a member in good standing of a specified accreditation body that provides oversight to service providers that apply attestation standards? If so, which accreditation body or bodies should we consider (e.g., AICPA)? Are there any other requirements for the attestation provider that we should specify? Instead, should we require a GHG emissions attestation provider to be a PCAOB-registered audit firm?***

EBA believes the qualifications of the GHG emissions Attestation provider should require the provider to be an expert, or have expertise in the firm, in GHG emissions, with significant experience in measuring, analyzing, reporting, or attesting to GHG emissions. EBA believes that the SEC should specify that significant experience means having sufficient competence and capabilities necessary to: (a) perform engagements in accordance with professional standards and applicable legal and regulatory requirements and (b) have over 5 years' experience as an Environmental Professional including, but not limited to, engineering, environmental science, or energy specialist performing greenhouse gas emissions calculation and reporting. EBA believes the SEC should not require the Attestation provider to be overseen by any accreditation bodies associated with the accounting industry including, but not limited to, AICPA and PCAOB.

## II. EBA COMMENTS TO SEC PROPOSED RULE REGARDING PHYSICAL CLIMATE RISK

[See Section II. Discussion (B.) Disclosure of Climate-Related Risks (pgs. 58-75)]

This comment is intended to enhance SEC’s awareness of an ASTM International (ASTM)<sup>1</sup> “Standard Guide for the Assessment of Physical Climate Risks for Real Property Assets,” anticipated to be approved and published by year end 2022. These physical risk assessments, known as Property Resilience Assessments (PRAs), are already occurring throughout the property investment marketplace, and this ASTM Standard is being designed by current users and practitioners to bring clarity and consistency to all parties. The use of ASTM-Standards are commonplace in real property transactions. In fact, the EPA has approved the use of ASTM Standard E1527 “Standard Practice for Environmental Assessments: Phase I Environmental Site Assessment Process” for potential liability protections under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) since 2005. EBA believes referencing the ASTM PRA in the SEC’s rule as an example of an appropriate industry standard would be helpful to all Registrants which own, lease, invest, lend, and manage real property assets.

The lending, investment, and consulting community collectively identified the urgent need for an ASTM Resilience Standard that aligns with the others that typically accompany property decision-making, such as the ASTM Standard E1527, E2018 “Standard Guide for Property Condition Assessment: Baseline Property Condition Assessment Process,” and E2026 “Standard Guide for Seismic Risk Assessment of Buildings.” These assessments, as well as the one being developed, generally apply to commercial buildings, which are inclusive of multi-family and institutional buildings. Although they are not commonly applied in single-family residential space, the concepts are transferable. To meet this need, ASTM International’s E06.25 Subcommittee for Whole Buildings & Facilities is developing a Standard Guide that will provide a framework and best practices for this climate-risk assessment process: the Standard Guide for Property Resilience Assessments of Buildings (WK62996).

Financial institutions, real estate investors, asset managers, and developers, as well as the providers of building assessments, including consulting, engineering, hazard screening, and modeling companies, and climate-related disclosure frameworks are involved with this effort. In addition, representatives of the American Society of Civil Engineers (ASCE), which is influential with respect to building codes, the American College of Real Estate Lawyers (ACREL), Institute for Sustainable Communities, U.S. Resiliency Council (USRC), Urban Land Institute (ULI) and National Center for Atmospheric Research (NCAR), are participating. Representatives of the rating agencies (NRSROs), CPACE lending community, academic institutions, Fannie Mae, and Freddie Mac also are involved.

Resilience in the context of the ASTM Standard PRA is the ability of a building to withstand natural hazard impacts. A more resilient building can better withstand hazards, resulting in better outcomes for occupants, investors, developers, and lenders. A PRA will create a standardized way of communicating the hazards and vulnerabilities that may affect a building and help identify resilience measures to improve its performance. The PRA scope does not include broader ESG reporting or physical or transitional climate risk across a business or supply chain. The PRA focuses solely on physical risks to a building from natural hazards, including those caused by or made more extreme by climate change. Aspects of the ASTM Standard could also be applied to building portfolios. The PRA consists of three steps as described below:

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<sup>1</sup> ASTM International (<https://www.astm.org/>) is one of the largest voluntary standards-developing organizations in the world and provides a forum for industry experts, end-users, consumers, government, and academia to come together and collaboratively produce an agreed-upon standard for a given purpose. Its standards provide a common language and reference guide for those in a given community, in this case, the real property and commercial real estate space.

**1. Natural Hazard Screening Stage:** Screening is conducted to determine which hazards are likely concerns for the building. This natural hazard screening involves leveraging publicly and commercially available data, hazard maps and models and using community-based maps and models, if available. Minimum levels of transparency regarding the sources and limitations of natural hazard and climate-related maps and models are identified. The PRA requires the use of maps or models that not only provide historical risk information but also forward-looking resources relative to the projected risks associated with climate change risk.

**2. Risk Assessment Stage:** A document review and site inspection are conducted to ascertain information about building materials, age of construction, on-site sensitivities, and vulnerabilities to identify the extent of the risk. The site inspection evaluates the hazards identified in the first stage and compares them to the building attributes, nature of occupancy, and any property adaptations already implemented. The outcomes of this stage of the assessment include a risk rating and potential damage estimate. Our goal is to provide the property investor, lender, or other users with enough information to understand if there is a significant concern to the building so they can make an informed decision about the extent of the vulnerability and plan for any necessary resilience measures.

**3. Basic Resilience Measures Stage:** This phase involves identifying resilience measures such as temporary or permanent flood barriers, moving critical equipment, fortifying the building against fire hazards, upgrading HVAC equipment, etc. General cost range estimates for these measures and the expected improvement to the risk rating identified in the risk assessment stage are also provided.

The ASTM Standard PRA will include an evaluation of physical hazards that would apply to a property, including flood, wildfire, and other perils. It will describe the minimum acceptable qualifications of assessors and require transparency with regard to which hazard maps and models are used. As such, it will require these mapping resources and tools be referenced without requiring certain maps or models be used, thus encouraging transparency and comparability.

### **Responses to Questions Posed within the Proposed Rule**

**1. Acute vs Chronic Risks (pp 61 – 62):** The ASTM PRA will align with the Task Force on Climate-Related Financial Disclosures (TCFD) definitions of acute and chronic hazards and will include an evaluation of both acute and chronic risks. The ASTM PRA will consider the interrelationships between acute and chronic hazards, and identify potential compounding and cascading effects. It is important to note that acute hazards are more difficult to predict than chronic hazards as acute hazards tend to be low frequency high impact events. As such, the ASTM PRA will consider, when appropriate, the uncertainty associated with predicting acute hazards.

**2. Define Short, Medium and Long Term (pp 71-75):** The ASTM PRA will consider short-, medium-, and long-term risk. We recommend these terms be defined in the context of an ASTM PRA as follows: Short Term 1-10 years; Medium Term 10-30 years; and Long-Term 30+ Years. Not defining these terms could produce inconsistency in the risk evaluation and disclosures across Registrants.

**3. Magnitude (pp 71-75):** With respect to climate risk materiality, the Proposed Rule states that “...materiality determination with regard to potential future events requires an assessment of both the *probability* of the event occurring and its potential *magnitude*, or *significance* to the registrant.” (pp 68). The concept of “magnitude” can be interpreted in two ways, based on this statement. Does the SEC intend magnitude to mean the intensity of a risk (for example, the windspeed of a hurricane or the height of a flood water)? Or is the SEC’s intention to describe the value or significance to the Registrant (for example, the significance of heat stress impact at a nursing home versus a self-storage facility)? The ASTM PRA will allow the Registrant to quantify the potential financial loss by

providing a potential damage estimate and facilitating the estimation of magnitude of loss per property and also on a portfolio basis. In addition, the ASTM PRA will consider the significance of the physical risk to the Registrant pursuant to its Stage 2 vulnerability assessment. In this way, the PRA supports the SEC's goals of Registrants evaluating the magnitude and significance of climate risk.

**4. Flood (pp 71-75):** For flood risk, the Registrant must disclose “the percentage of buildings, plants, or properties (square meters or acres) that are located in flood hazard areas in addition to their location.” (pp 63). The Proposed Rule should encourage the Registrant to also disclose flood risk mitigation measures and/or flood insurance policies in place. ASTM supports defining “flood hazard area” using the definition established by the Federal Emergency Management Agency (FEMA).

#### **CONCLUSIONS/RECOMMENDATIONS**

EBA believes the qualifications of the GHG emissions Attestation provider should require the provider to be an expert, or have expertise in the firm, in GHG emissions, with significant experience in measuring, analyzing, reporting, or attesting to GHG emissions. EBA believes that the SEC should specify that significant experience means have sufficient competence and capabilities necessary to: (a) perform engagements in accordance with professional standards and applicable legal and regulatory requirements and (b) have over 5 years' experience as an Environmental Professional including but not limited to engineering, environmental science, or energy specialist performing greenhouse gas emissions calculation and reporting.

EBA believes referencing the anticipated ASTM Standard Guide PRA in the SEC's rule as an example of an appropriate industry standard would be helpful to all parties involved. Clarity and consistency are required for the proposed SEC process of climate risk disclosure to achieve its goals. To achieve clarity and consistency, you must have a standard that is familiar, trusted, and easily adopted. The anticipated ASTM Standard Guide PRA is open, transparent, and consensus-based which is needed because the science required for effective climate risk assessment is forward-looking, complex and fast-moving. The ASTM Standard Guide PRA is needed by investors, lenders, the real estate community, asset managers, and regulators, who may lack expertise or capacity for such physical climate risk analysis.

Environmental Bankers Association



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