

# STATE OF NEW YORK

4123--A

2023-2024 Regular Sessions

## IN ASSEMBLY

February 9, 2023

Introduced by M. of A. GLICK, CUNNINGHAM, KELLES -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to climate corporate accountability

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "climate  
2 corporate accountability act".

3 § 2. The environmental conservation law is amended by adding a new  
4 section 75-0121 to read as follows:

5 § 75-0121. Climate corporate accountability act.

6 1. Definitions. As used in this section, the following terms shall  
7 have the following meanings:

8 a. "Emissions registry" means an entity within the department or a  
9 nonprofit emissions registry organization contracted by the department  
10 pursuant to paragraph b of this subdivision that:

11 i. Currently operates a voluntary greenhouse gas emissions registry  
12 for organizations operating in the United States; or

13 ii. Has experience with voluntary greenhouse gas emissions disclosure  
14 by entities operating in New York.

15 b. "Reporting entity" means a business entity with total revenues in  
16 excess of one billion dollars in the preceding calendar year, including  
17 revenues received by all the business entity's subsidiaries that does  
18 business in this state.

19 c. "Scope one emissions" means all direct greenhouse gas emissions  
20 that stem from sources that a reporting entity owns or directly  
21 controls, regardless of location, including, but not limited to, fuel  
22 combustion activities.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 d. "Scope two emissions" means indirect greenhouse gas emissions from  
2 electricity purchased and used by a reporting entity, regardless of  
3 location.

4 e. "Scope three emissions" means indirect greenhouse gas emissions,  
5 other than scope two emissions, from activities of a reporting entity  
6 that stem from sources that the reporting entity does not own or direct-  
7 ly control and may include, but are not limited to, emissions associated  
8 with the reporting entity's supply chain, business travel, employee  
9 commutes, procurement, waste, and water usage, regardless of location.

10 2. a. The department shall adopt regulations to require a reporting  
11 entity to annually disclose and verify to the emissions registry all of  
12 the reporting entity's scope one emissions, scope two emissions, and  
13 scope three emissions. The regulations adopted pursuant to this subdivi-  
14 sion shall require, at a minimum, that:

15 i. (1) Except as provided in clause two of this subparagraph, on or  
16 before July first of each year, a reporting entity shall publicly  
17 disclose to the emissions registry all of the reporting entity's scope  
18 one emissions and scope two emissions for the prior calendar year, and  
19 its scope three emissions for that same calendar year no later than  
20 December thirty-first, using the Greenhouse Gas Protocol Corporate  
21 Accounting and Reporting Standard and the Greenhouse Gas Protocol Corpo-  
22 rate Value Chain (Scope 3) Accounting and Reporting Standard developed  
23 by the World Resources Institute and the World Business Council for  
24 Sustainable Development, including guidance for scope three emissions  
25 calculations that detail acceptable use of both primary and secondary  
26 data sources, including the use of industry average data, proxy data,  
27 and other generic data in its scope three emissions calculations.

28 (2) The department shall review, and update as necessary, the public  
29 disclosure deadlines established pursuant to clause one of this subpara-  
30 graph to evaluate trends in scope three emissions reporting and consider  
31 changes to the disclosure deadlines to ensure that scope three emissions  
32 data is disclosed to the emissions registry as close in time as practi-  
33 cable to the deadline for reporting entities to disclose scope one emis-  
34 sions and scope two emissions data.

35 The reporting timelines shall take into account the timelines by which  
36 reporting entities typically receive scope one, scope two, and scope  
37 three emissions data, as well as the capacity for independent verifica-  
38 tion to be performed by a third-party auditor, as approved by the  
39 department.

40 ii. A reporting entity's public disclosure shall include the name of  
41 the reporting entity and any fictitious names, trade names, assumed  
42 names, subsidiaries and logos used by the reporting entity.

43 iii. A reporting entity's public disclosure shall be structured in  
44 ways that minimize duplication of effort and maximize and streamline  
45 reporting and ease of use in meeting the requirements of national and  
46 international disclosure programs and standards, including, but not  
47 limited to, adopted rules from the United States Securities and Exchange  
48 Commission and international standards such as those established by CDP  
49 Global.

50 iv. (1) A reporting entity's public disclosure shall be independently  
51 verified by the emissions registry or a third-party auditor approved by  
52 the department with expertise in greenhouse gas emissions accounting.  
53 The reporting entity shall ensure that a copy of the complete, audited  
54 greenhouse gas emissions inventory, including the name of the approved  
55 third-party auditor, is provided to the emissions registry as part of or  
56 in connection with the reporting entity's public disclosure.

1 (2) The department shall establish auditor qualifications and a process  
2 for approval of auditors that ensures sufficient auditor capacity,  
3 as well as timely reporting implementation as required under clause one  
4 of subparagraph i of this paragraph.

5 b. The department shall create or contract with, an emissions registry  
6 to develop a reporting and registry program to receive and make publicly  
7 available disclosures required by this section. Emissions registries  
8 shall not be authorized to provide services to a company where a  
9 conflict of interest exists. A conflict of interest shall include:

10 i. The emissions registry and reporting entity sharing any management  
11 staff or board of directors membership, or any of the senior management  
12 staff of the reporting entity having been employed by the emissions  
13 registry or reporting entity within the previous five years.

14 ii. Any employee of the emissions registry, or any employee of a  
15 related entity, or a subcontractor who is a member of the emissions  
16 registry having provided the reporting entity with services related to  
17 the areas of emissions registry, or any services designated by the  
18 department, within the previous five years.

19 iii. Any staff member of the emissions registry providing any type of  
20 non-monetary incentive to a reporting entity to secure a services  
21 contract.

22 c. The department may adopt or update any other regulations that it  
23 deems necessary and appropriate to implement this subdivision.

24 3. a. The department shall prepare a report on the public disclosures  
25 made by reporting entities to the emissions registry pursuant to subdivi-  
26 vision two of this section and the regulations adopted by the department  
27 pursuant to such subdivision. In preparing the report, consideration  
28 shall be given to, at a minimum, greenhouse gas emissions from reporting  
29 entities in the context of state greenhouse gas emissions reduction and  
30 climate goals. The department shall issue the report of its findings to  
31 the governor, the speaker of the assembly and the temporary president of  
32 the senate and shall publish such report on its website.

33 b. The emissions registry shall make the reporting entities' disclo-  
34 tures available on the department's website within thirty days of  
35 receipt of such disclosures.

36 4. The attorney general may bring a civil action against a reporting  
37 entity seeking civil penalties of one hundred thousand dollars per day  
38 for willful failure to comply with the requirements of this section or  
39 regulations set forth by the department.

40 § 3. This act shall take effect two years after it shall have become a  
41 law. Effective immediately, the addition, amendment and/or repeal of any  
42 rule or regulation necessary for the implementation of this act on its  
43 effective date are authorized to be made and completed on or before such  
44 effective date.