STATE OF NEW YORK

897

2023-2024 Regular Sessions

IN SENATE

January 9, 2023

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

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:

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

§ 2. The environmental conservation law is amended by adding a new section 75-0118 to read as follows:

§ 75-0118. Climate corporate accountability act.

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

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

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

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

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

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

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

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

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

2. a. The department shall adopt regulations to require a reporting entity to annually disclose and verify to the emissions registry all of the reporting entity's scope one emissions, scope two emissions, and scope three emissions. The regulations adopted pursuant to this subdivision shall require, at a minimum, that:

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

(2) The department shall review, and update as necessary, the public disclosure deadlines established pursuant to clause one of this subparagraph to evaluate trends in scope three emissions reporting and consider changes to the disclosure deadlines to ensure that scope three emissions data is disclosed to the emissions registry as close in time as practicable to the deadline for reporting entities to disclose scope one emissions and scope two emissions data.

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

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

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

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

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

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

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

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

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

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

3. a. The department shall prepare a report on the public disclosures made by reporting entities to the emissions registry pursuant to subdivision two of this section and the regulations adopted by the department pursuant to such subdivision. In preparing the report, consideration shall be given to, at a minimum, greenhouse gas emissions from reporting entities in the context of state greenhouse gas emissions reduction and climate goals. The department shall not require reporting entities to report any information beyond what is required pursuant to this section or the regulations adopted by the department pursuant to subdivision two of this section. The department shall issue the report of its findings to the governor, the speaker of the assembly and the temporary president of the senate and shall publish such report on its website.

b. The emissions registry shall make the reporting entities' disclosures available on the department's website within thirty days of receipt of such disclosures.

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

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