

Assembly Bill No. 1305

CHAPTER 365

An act to add Part 10 (commencing with Section 44475) to Division 26 of the Health and Safety Code, relating to carbon offsets.

[Approved by Governor October 7, 2023. Filed with Secretary of State October 7, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1305, Gabriel. Voluntary carbon market disclosures.

Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources.

This bill would require a business entity that is marketing or selling voluntary carbon offsets, as defined, within the state to disclose on the business entity's internet website specified information about the applicable carbon offset project and details regarding accountability measures if a project is not completed or does not meet the projected emissions reductions or removal benefits, as provided. The bill would also require an entity that purchases or uses voluntary carbon offsets that makes claims regarding the achievement of net zero emissions or other, similar claims, as specified, to disclose on the entity's internet website specified information. The bill would require an entity that makes these claims to disclose on the entity's internet website all information documenting how, if at all, a claim was determined to be accurate or actually accomplished, how interim progress toward that goal is being measured, and whether there is independent third-party verification of the company data and claims listed. The bill would make a person who violates these provisions subject to a civil penalty of not more than \$2,500 per day, as specified, for each violation, not to exceed a total amount of \$500,000, which would be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by a district attorney, county counsel, or city attorney in a court of competent jurisdiction. The bill would additionally require that disclosures be updated no less than annually.

The people of the State of California do enact as follows:

SECTION 1. Part 10 (commencing with Section 44475) is added to Division 26 of the Health and Safety Code, to read:

PART 10. VOLUNTARY CARBON MARKET DISCLOSURES

44475. A business entity that is marketing or selling voluntary carbon offsets within the state shall disclose on the business entity's internet website all of the following information:

(a) Details regarding the applicable carbon offset project, including all of the following information:

(1) The specific protocol used to estimate emissions reductions or removal benefits.

(2) The location of the offset project site.

(3) The project timeline.

(4) The date when the project started or will start.

(5) The dates and quantities when a specified quantity of emissions reductions or removals started or will start, or was modified or reversed.

(6) The type of project, including whether the offsets from the project are derived from a carbon removal, an avoided emission, or, in the case of a project with both carbon removals and avoided emissions, the breakdown of offsets from each.

(7) Whether the project meets any standards established by law or by a nonprofit entity.

(8) The durability period for any project that the seller knows or should know that the durability of the project's greenhouse gas reductions or greenhouse gas removal enhancements is less than the atmospheric lifetime of carbon dioxide emissions.

(9) Whether there is independent expert or third-party validation or verification of the project attributes.

(10) Emissions reduced or carbon removed on an annual basis.

(b) Details regarding accountability measures if a project is not completed or does not meet the projected emissions reductions or removal benefits, including, but not limited to, details regarding what actions the entity, either directly or by contractual obligation, shall take under both of the following circumstances:

(1) If carbon storage projects are reversed.

(2) If future emissions reductions do not materialize.

(c) The pertinent data and calculation methods needed to independently reproduce and verify the number of emissions reduction or removal credits issued using the protocol.

(d) For the purposes of this part, the following definitions apply:

(1) "Durability" means the duration of time over which an offset project operator commits to maintain its greenhouse gas reductions and greenhouse gas removal enhancements, as applicable, exclusive of any aspirational outcomes that exceed or extend beyond the mandatory outcomes required of the offset project pursuant to its offset protocol.

(2) "Protocol" means a documented set of procedures and requirements to quantify ongoing greenhouse gas reductions or greenhouse gas removal enhancements achieved by an offset project and to calculate the project baseline, including specification of relevant data collection and monitoring

procedures, emission factors, and methodologies used to conservatively account for uncertainty and activity-shifting and market-shifting leakage risks associated with an offset project.

(3) (A) “Voluntary carbon offset” means any product sold or marketed in the state that claims to be a “greenhouse gas emissions offset,” a “voluntary emissions reduction,” a “retail offset,” or any like term, that connotes that the product represents or corresponds to a reduction in the amount of greenhouse gases present in the atmosphere or that prevents the emission of greenhouse gases into the atmosphere that would have otherwise been emitted.

(B) “Voluntary carbon offset” does not include products that represent or correspond to legal or regulatory mandates for either of the following:

(i) Reduction of the amount of greenhouse gases present in the atmosphere.

(ii) Prevention of the emissions of greenhouse gases into the atmosphere.

44475.1. An entity that purchases or uses voluntary carbon offsets that makes claims regarding the achievement of net zero emissions, claims that the entity, related entity, or a product is “carbon neutral,” or makes other claims implying the entity, related entity, or a product does not add net carbon dioxide or greenhouse gases to the climate or has made significant reductions to its carbon dioxide or greenhouse gas emissions shall disclose on the entity’s internet website all of the following information pertaining to each project or program:

(a) The name of the business entity selling the offset and the offset registry or program.

(b) The project identification number, if applicable.

(c) The project name as listed in the registry or program, if applicable.

(d) The offset project type, including whether the offsets purchased were derived from a carbon removal, an avoided emission, or a combination of both, and site location.

(e) The specific protocol used to estimate emissions reductions or removal benefits.

(f) Whether there is independent third-party verification of company data and claims listed.

(g) This section does not apply to entities that do not operate within the state or do not purchase or use voluntary carbon offsets sold within the state.

44475.2. An entity that makes claims regarding the achievement of net zero emissions, claims that the entity, a related or affiliated entity, or a product is “carbon neutral,” or makes other claims implying the entity, related or affiliated entity, or a product does not add net carbon dioxide or greenhouse gases, as defined in Section 38505, to the climate or has made significant reductions to its carbon dioxide or greenhouse gas emissions, as described in Section 38505, shall disclose on the entity’s internet website all of the following information pertaining to all greenhouse gas emissions associated with its claims:

(a) All information documenting how, if at all, a “carbon neutral,” “net zero emission,” or other similar claim was determined to be accurate or

actually accomplished, and how interim progress toward that goal is being measured. This information may include, but not be limited to, disclosure of independent third-party verification of all of the entity's greenhouse gas emissions, identification of the entity's science-based targets for its emissions reduction pathway, and disclosure of the relevant sector methodology and third-party verification used for the entity's science-based targets and emissions reduction pathway.

(b) Whether there is independent third-party verification of the company data and claims listed.

(c) This section does not apply to entities that either do not operate within the state, or that do not make claims within the state.

44475.3. (a) A person who violates this part is subject to a civil penalty of not more than two thousand five hundred dollars (\$2,500) per day, for each day that information is not available or is inaccurate on the person's internet website, for each violation, not to exceed a total amount of five hundred thousand dollars (\$500,000), which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by a district attorney, county counsel, or city attorney in a court of competent jurisdiction.

(b) Disclosures pursuant to this part shall be updated no less than annually.