

Legislative Advisory

California AB 1305 – Carbon Offsets and Climate Marketing Claims

We recommend knowing the law and making a plan for compliance.

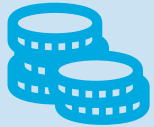
Background:

- California established an “anti-greenwashing” law regarding GHG claims.
- The law applies to an entity making claims about: carbon offsets that it markets or sells, its Greenhouse Gas reductions, or its participation in a carbon offset program.
- The law is backed by penalties and can be enforced by public attorneys from the California Attorney General to a local city attorney.
- The law is in effect now.

We have prepared the following summary for your convenience.

California AB 1305 – CARBON Offsets and Climate Marketing Claims

An Entity Triggers Disclosure Obligations If It:



Is in the Business of Marketing or Selling Voluntary Carbon Offsets



Purchases or Uses Voluntary Carbon Offsets and Claims Net Zero, Carbon Neutral or Significant GHG Emission Reductions for the Entity or its Products Based on Its Use of the offsets



Makes Claims that It or Its Product is Net Zero, Carbon Neutral, or Achieves Significant GHG Emission Reductions

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Disclosure Obligations Appear to Apply Broadly



Applies to publicly traded and privately held California and foreign entities “operating” or “making claims” in California

NOTE: “Operating” and “making claims” are not defined in the statute

NOTE: What constitutes a “claim” within the meaning of the statute is also not defined



No minimum activity threshold for an entity that “makes claims” or “operating” in California



The statute contains **no limit on the time covered by a claim** – thus, the law potentially applies to a current claim regarding past GHG reductions or achievements



Disclosures begin **January 1, 2024** (unless changed by statute), and disclosures must be updated annually

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Enforcement and Penalties

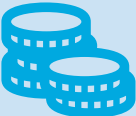


Failure to disclose or making an inaccurate disclosure is subject to a civil penalty of \$2,500 per day up to a maximum of \$500,000



Penalties are recoverable in a civil action by the California Attorney General, a district attorney, a city attorney, or a county counsel

California AB 1305 – CARBON Offsets and Climate Marketing Claims Required Disclosures Are Specific to Category of Covered Entity



Sellers and Marketers of Carbon Offsets

Information addressing the specifics of the carbon offset project, including: measures if the project is not successful; accounting method; underlying data; and method of independent verification. **See California Health and Safety Code section 44475**



Entities Making Claims Based On Its Use of Carbon Offsets

Information addressing the carbon offset, including: name of the entity selling the offset; offset registry or program; Project ID number and name; offset project type (i.e., carbon removal or emission reduction) and location of offset; protocol to estimate carbon removal or reduction; whether third-party verification covers the offset. **See California Health and Safety Code section 44475.1**



Entities Making Covered Claims

Information regarding the claims, including: documentation of how claims are determined to be accurate; verification that claims are accurate and accomplished or interim progress is being made; and whether a third-party verifies the data or claim. **See California Health and Safety Code section 44475.2**

NOTE: California AB 1305 – Is Not the State's Only Greenhouse Gas Disclosure Law

Other recent California Carbon Disclosure Legislation:



SB 253 – The Climate Corporate Data Accountability Act

Will require companies with annual revenues in excess of \$1 billion to disclose greenhouse gas emissions associated with their enterprise whether direct or indirect.



SB 261 – The Climate-Related Financial Risk Act

Will require companies with annual revenues in excess of \$500 million to prepare climate-related financial risk reports to assess and share the risks they have identified, and what efforts they are making to mitigate those risks.

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For more information about California’s carbon disclosure laws or making a plan to achieve compliance, click on the above link or contact:

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