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Understanding California's AB-1305 Voluntary Carbon Market Disclosures Act

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Background:

Earlier this year, California's Governor signed the AB-1305 Voluntary Carbon Market Disclosures Act (VCMDA) into law, with the intent of increasing transparency and accountability surrounding the voluntary carbon market and net zero/carbon neutrality claims, making California the first US state to pass a bill of this kind. The act requires that entities operating in California that sell or market voluntary carbon offsets, purchase voluntary carbon offsets and/or make net-zero, carbon neutrality, or significant greenhouse gas (GHG) reduction claims to disclose on their website specified information (see bill and table below) to substantiate the validity of related programs, initiatives and disclosures.

What You Should Know:

- **Why:** The VCMDA aims to combat greenwashing in the voluntary carbon market and encourage effective, transparent, and legitimate GHG reduction efforts within organizations operating in CA. Violations carry a civil penalty of not more than $2,500 per day, for each violation, not to exceed a total amount of $500,000.
- **Who:** Entities operating in California that 1) sell or market carbon offsets, 2) purchase offsets for neutrality purposes, and/or 3) claim carbon neutrality, net zero, or significant GHG emissions reductions with or without offsets.
- **Where:** The disclosures required by AB-1305 (see bill and table below) should be published on the business entity's internet website.
- **When:**
  - **Effective date of the Act:** January 1, 2024.
  - **Legislative intent:** On November 30th 2023, the author of the act, Assemblymember Gabriel, stated in a letter that the intent of the VCMDA is for the first annual disclosure to be posted by January 1, 2025. This would provide companies with time to adjust their practices before potential fines could be imposed.
  - **Disclosure deadline:** Due to the ambiguity regarding the effective date of the disclosure requirements, 3ECON advises companies to consult with their legal teams to determine a disclosure plan and timeline.

- **What:** Disclosure requirements for each group are outlined in the table below.

Entities marketing or selling voluntary carbon offsets	Entities using voluntary carbon offsets for carbon neutrality	Entities claiming net zero, carbon neutrality, or significant GHG reductions
A business entity that **is marketing or selling voluntary carbon offsets** within the state shall disclose: • Details regarding the applicable carbon offset project • 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 (1) if carbon storage projects are reversed or (2) if future emissions reductions do not materialize. • The pertinent data and calculation methods needed to independently reproduce and verify the number of emissions reduction or removal credits issued using the protocol. *Please see the bill for full details.*	An entity that makes claims regarding the **achievement of net zero emissions or carbon neutrality** or makes other claims implying the entity or a product does not add net greenhouse gases to the climate or has made **significant reductions to its GHG emissions** shall disclose all of the following information pertaining to all GHG emissions associated with its claims: • 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 GHG 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 science-based targets and emissions reduction pathway. • Whether there is independent third-party verification of the company data and claims listed. *Please see the bill for full details.*	An entity that **purchases or uses voluntary carbon offsets** that makes claims regarding the achievement of net zero emissions, claims that the entity or a product is "carbon neutral," or has made significant reductions to its GHG emissions shall disclose all of the following information pertaining to each project or program: • The name of the business entity selling the offset and the offset registry or program. • The project identification number, if applicable. • The project name as listed in the registry or program, if applicable. • 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. • The specific protocol used to estimate emissions reductions or removal benefits. • Whether there is independent third-party verification of company data and claims listed. *Please see the bill for full details.*

What To Do Next?

1. Consult with your legal team to confirm if and when your organization will need to comply with this and other climate regulations.
2. Prepare VCMDA-aligned disclosures in coordination with your legal team and make them available on your website.
3. Partner with Third Economy to incorporate VCMDA disclosure requirements into your ESG roadmap.

Disclaimer: The information provided does not, and is not intended to, constitute legal advice; instead, all information, content, and materials available are for general informational purposes only.

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