

California Law Nudges Businesses to Report Sustainability Efforts

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Hanson Bridgett's Jonathan Storper explains how California's new carbon reporting law will reshape voluntary corporate environmental strategies.

By now, perhaps your company has gone green in some form or another. A committee might be working on eco-accountability sustainability initiatives. This has led to the buying and selling of carbon offsets for many businesses.

All that sounds great within a strategic plan—and even better for marketing purposes. But can your company actually back up its claims? It needs to, because starting Jan. 1, [California's AB 1305](#) will take effect—requiring companies to boost transparency and accountability on carbon offset disclosures.

New Law Parameters

Sponsors of the Voluntary Carbon Market Disclosures Act's say the law marks a concerted effort to reduce greenwashing by requiring companies to better monitor and scrutinize voluntary carbon offsets reporting.

Under the new law, if your company operates in California and markets or sells voluntary offsets, you must give extra scrutiny to climate-friendly initiatives, boost reporting transparency, and enhance overall climate-related oversight.

VCOs are defined as 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 reduces or prevents greenhouse gases. VCOs don't include products that represent or correspond to legal or regulatory mandates for reducing or preventing greenhouse gas emissions.

Disclosures and Data

Companies should take a coordinated approach to validating data for VCO projects and should be able to disclose the following:

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

It includes baseline calculations such as specification of relevant data collection and monitoring procedures, emissions factors, and methodologies to account for uncertainty, and activity-shifting and market-shifting leakage risks associated with an offset project.

The project type, including whether offsets 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.

The durability period for any project that the seller knows (or should know) that greenhouse gas reductions or removal enhancements is less than the atmospheric lifetime of carbon dioxide emissions. Durability means the duration over which an offset project operator commits to maintaining its greenhouse gas reductions and removal enhancements.

Additional disclosures include:

- The offset project location, timeline, and any dates and quantities of emissions reductions or removals.
- Any independent expert or third-party validation or verification of the project attributes.
- Annual emissions reduced or removed.

Accountability Measures

Businesses must disclose details about failed projects—those that aren't completed or don't meet the projected emissions reductions or removal benefits. That includes details about actions the entity, either directly or by contractual obligation, will take if the carbon storage projects are reversed and if emissions aren't actually reduced as planned.

Showing Your Receipts

Backing up claims with data is key. Companies also must use proper calculation methods to independently reproduce and verify the amount of emissions reduction or removal credits issued using the protocol.

With AB 1305, any entity that either operates within California or purchases or uses VCOs sold in California, and makes claims about achieving net zero emissions, carbon neutrality, or emissions reduction claims, must specify the following information on its website:

- The business selling the offset and the registry or program.
- The project identification number, if applicable.
- Offset project type including whether the offsets purchased were derived from a carbon removal, an avoided emission, or a combination.
- The protocol used to estimate the benefits.
- Any independent third-party verification of data and claims.

Under the new law, businesses must document how claims were determined to be accurate or accomplished and how interim progress is measured.

Penalties

Individual violations are subject to a civil penalty of \$2,500 for each day the information is unavailable or is inaccurate on the company's website (not to exceed \$500,000). The state's attorney general and any district attorney, county counsel, or city attorney may file a civil action to recover penalties.

Voluntary carbon market regulation is coming, and it's time for businesses to pay close attention. Companies should develop internal policies should be to ensure documentation is readily available to support all emissions disclosures.

If AB 1305 applies to your company, it's best to favor caution and take a risk-averse approach to avoid costly penalties and foster crucial consumer trust.

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