

Assemblymember Jesse Gabriel  
P.O. Box 942849  
Sacramento, CA 94249-0046

12 February 2024

**Re: Proposed Amendments to AB 1305**

Dear Assemblymember Gabriel:

We appreciate your leadership in sponsoring AB 1305 as well your genuine openness to receiving input on improving this important piece of legislation. The high-integrity voluntary carbon market (the “VCM”) welcomes enhanced consumer protection as we continue to evolve and facilitate much-needed investment in climate and nature protections all over the world. We appreciate your willingness to work with the participants in the high-integrity VCM to increase transparency and accountability within the market.

As you know, the leading participants in the VCM, both NGOs and private companies, have been working hard to establish measures to ensure the environmental integrity and quality of carbon credits. These efforts are being undertaken and led by such entities as the Integrity Council for the Voluntary Carbon Market (the [ICVCM](#)) and the Voluntary Carbon Market Integrity Initiative (the [VCMII](#)). Our organization, the International Emissions Trading Association ([IETA](#)), has been working closely with these global VCM integrity initiatives as well as with our own members and others in the market to increase integrity at the same time that we focus on increasing ambition in the fight to address the climate crisis. We appreciate your legislative efforts that focus on these same critical goals.

IETA sees AB 1305 as a generally positive measure that will help to ensure transparency of carbon credits and thereby serve to enhance the integrity and quality of carbon credits. However, AB 1305 is requiring the participants in the VCM to scramble to understand its requirements. We greatly appreciate your November 30, 2023 letter (printed in the Assembly Journal on January 3, 2024) stating that it was your “intent that the first annual disclosure be posted by January 1, 2025,” so

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as to provide “reporting entities with sufficient time to align their business practices with the stated objectives of AB 1305 prior to being subject to potential civil fines.” That clarification helps a great deal, as we are confident that potential prosecutors will respect it.

**We write now as we believe there are other clarifications that would facilitate businesses aligning with the objectives of AB 1305.** The effective date was not the only element of the bill that has caused confusion and imposed burdens on businesses that do not advance the interests of the law’s intentions of transparency and accountability.

We understand that you are considering a “clean-up” bill that would clarify other aspects of the bill, and we offer these proposed changes for your consideration. They are detailed in the attached “redline” of AB 1305, and below we set forth a high-level summary of the main points that the attached document endeavors to implement.

### **Priority, High-Level Clarifications Sought for 1305 to Better Meet its Objectives**

- 1. Time frame for AB 1305’s application.** As noted above we appreciate that you endeavored in your November 30, 2023 letter to clarify that you intended that the law not go into effect until January 1, 2025 in order to provide “reporting entities with sufficient time to align their business practices with the stated objectives of AB 1305.” We’ve proposed changes to implement that change as well as the corollary that the offset for which AB 1305 imposes disclosure obligations are those that were issued after this same date, January 1, 2025. In many instances, it may be impossible to “align business practices with the stated objectives of AB 1305” for offsets that were issued in years past. The data required to be disclosed simply may not be available for offsets issued in the past, and entities ought not to be subject to liability for inadequate disclosures regarding offsets that were generated and sold prior to the effective date of the law.
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2. **“Durability” is a vague, ambiguous and hotly contested term.** Depending upon the greenhouse gas (“GHG”) and the context in which it was emitted, the IPCC has recognized that it may persist in the atmosphere from anywhere between a few decades and a thousand years. Given this high level of uncertainty, it is not fair or appropriate to impose a burden upon entities to disclose the durability of any particular project’s GHG emission reduction or removal enhancement, as it will vary widely depending upon many different variables.
  
3. **Nearly all of the information required to be disclosed is generated by the registries that issue the offsets.** Secondary market participants should be entitled to rely upon and point to the registries and the information contained therein as fulfilment of the disclosure requirements. That information is central to the operation of the registries, but not that of the entities that rely upon them. It is simply impossible for many in the VCM to obtain the detailed information required to be disclosed if they cannot rely upon the information provided by the registries.

Again, we share AB 1305’s objectives of enhancing and ensuring the integrity, transparency and accountability of carbon offsets, and we commend you for your efforts to improve the VCM and in so doing to advance the fight against climate change. We offer these proposed changes in a good faith effort to clarify the ambiguities in the law so as to improve the likelihood that it achieves its objectives. We would be happy to future discuss our insights and proposed revisions with you and your staff.

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