

August 11, 2011

Clerk of the Board
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Submitted electronically

Re: Comments on the Proposed modified California cap and trade regulations

The Verified Carbon Standard Association (VCSA) welcomes the opportunity to offer comments on the modified text of ARB's Proposed Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation. We appreciate the continued leadership demonstrated by the Board and its staff to develop and refine a market-based set of rules to cost-effectively reduce greenhouse gas emissions.

Founded in 2005 by The Climate Group, the International Emissions Trading Association, the World Business Council for Sustainable Development and the World Economic Forum, VCS is one of the world's leading voluntary greenhouse gas (GHG) emission reduction programs with over 60 million Verified Carbon Units (VCUs) issued from more than 500 projects registered worldwide. VCSA is eager to assist in the development of a robust and efficient California cap and trade program. We have many years of experience in building a strong, coherent and well-respected global GHG emission reduction program and would like to share our experiences and insights. More information about VCSA and the VCS Program can be found on our website at www.v-c-s.org.

We are pleased to see that a number of the comments offered by VCSA on the proposed regulations issued in 2010 were incorporated into the current draft. Our comments here focus on clarifications aimed at helping to bring greater transparency, certainty and robustness to the offsets provisions of the modified draft regulations. Specifically, we offer the following recommendations:

1. Reconsider the application requirements for Offset Project Registries;
2. Consider adopting financial standing requirements for Offset Project Registries;
3. Provide more guidance on the recognition of early action offset credits from projects other than those implemented under the already approved protocols;
4. Provide greater clarity on the procedures and requirements for the approval of new offset protocols; and
5. Expand the number of eligible offset project types.

1. Application requirements for Offset Project Registries

Section 95986(j) provides for the approval of an entities' application to be an Offset Project Registry only after the applicant's management staff have completed the ARB training required in Section 95986(h). Requiring applicants to undergo training before they are approved (or not approved) imposes an unnecessary expense and time burden on them. Since it is likely that an application will be rejected on other, more substantive grounds, we make the following recommendation.

RECOMMENDATION: Revise the application review and approval process outlined in Section 95986 that directs the Executive Officer to make a contingent approval of an applicant that meets the requirements defined in Section 95986(c) through (g), with final approval subject to the applicant providing evidence that it has successfully completed the training requirement. Upon determining that an applicant meets requirements 95986(c) – (g), the Executive Officer would then notify the applicant of its contingent approval and provide a specified timeframe within which the applicant must successfully complete the training in order to receive final approval. Once the applicant provides evidence that it has successfully completed the training, the Executive Officer would then issue a final approval.

2. Financial standing requirements for Offset Project Registries

Given the central role that registries play in ensuring the environmental and financial integrity of an emissions reduction and trading program, it is important that the providers of registry services are themselves technically

capable, financially sound, and managerially competent entities. VCSA believes that the requirements for Offset Project Registries outlined in the proposed rule are not robust enough for purposes of establishing the sound, long-term functioning of the offsets program. For its own program, the VCSA requires its registry service providers to meet strict financial standing requirements (including, for example, more extensive insurance coverage than required by ARB and minimum net asset requirements), and have in place insolvency protections and conflict of interest policies (including prohibitions on proprietary trading of carbon instruments) that go beyond the requirements indicated in the modified draft rule. We suggest that ARB establish similar standards.

RECOMMENDATION: Amend Section 95986(c) to include requirements that Offset Project Registry applicants meet more robust financial standing standards similar to those established by VCSA for its registry service providers. As its agreements with its registry service providers are confidential, VCSA would be willing to share more details on these requirements with ARB as long as that confidentiality can be preserved.

3. Recognition of early action offset credits

VCSA is pleased to see that the criteria for approval of early action offset credits issued by early action offset programs (Section 95990 (c)) now includes a place holder for GHG reductions or enhancements that result from the use of “additional early action offset project protocols” (i.e., protocols other than the four protocols already approved by ARB) (95990(c) (5) (E)). Expanding the list of eligible protocols will encourage more projects to seek credit for early action and, as a consequence, will enhance liquidity and help contain the cost of compliance early in the program. This is especially important given the possibility that the supply of offset credits issued under the four approved protocols may not meet demand.

The modified draft rule, however, does not identify a mechanism for how additional protocols will be considered and added to the list of existing eligible early action methodologies. To truly facilitate the development of an adequate pool of early action credits, more clarity must be provided for how early action protocols can be brought forward for consideration and approval.

RECOMMENDATION: Amend Section 95990 to include a provision that describes a transparent process that ARB will employ to consider, evaluate and approve additional early action offset protocols.

4. Approval of new offset protocols

a) Define standardized methods

Section 95972 of the modified draft regulation text adds a new condition that in order to be approved by the Board, compliance offset protocol must: “Consist of approved standardized methods” (Section 95972(a) (9)). However, no definition is provided regarding what constitutes “approved standardized methods.”

RECOMMENDATION: To provide greater guidance to methodology and project developers, investors and other offset market stakeholders, ARB should clarify exactly what this provision means, especially as it has several dimensions. First, it would be useful if ARB indicated whether standardized methods relate to the determination of additionality, the calculation of emissions reductions, or both. It may be worth concentrating initially on standardized approaches to additionality, since there is more experience to date with such approaches. Second, it would be helpful if ARB indicated whether standardized methods refer to positive lists, performance benchmarks or other approaches. Finally, it would be helpful if ARB identified the offset project types for which it is seeking standardized methodologies and provided detailed parameters for how those methodologies are to be designed.

NOTE: VCSA has convened an expert committee to draft requirements that will guide methodology developers and others working on performance benchmarks, positive lists and other standardized approaches for determining baselines and additionality. The VCS Steering Committee on Standardized Approaches for Baselines and Additionality is comprised of individuals representing a broad range of stakeholders knowledgeable in the effective functioning of GHG programs including methodology and project developers, environmental non-profit organizations, GHG program regulators, validation and verification bodies, and businesses. The Steering Committee will complete its initial work by late 2011 or early 2012 and VCSA would be happy to share the Committee’s recommendations with ARB at that time.

b) Allow a transition period for the use of project-based protocols

While they may be the preferred way to go, standardized approaches are limited in number, take time to develop, and require significant resources. Allowing project-based protocols to be approved for a limited time will encourage a

diverse and creative range of protocol types over the longer term. Importantly, the development of project-based approaches can serve to inform the creation of standardized approaches in certain sectors and will provide the necessary incentives to motivate an industry-wide move towards lower carbon emissions. Restricting approved protocols to only standardized approaches could also result in insufficient offset supply arising from a limited set of protocols.

RECOMMENDATION: ARB should specify that project-based approaches, like those used in many other offset programs around the world, will be accepted for a limited transition period at the beginning of the cap-and-trade program's implementation, and as a transition to sector-wide approaches.

c) Create an open process for submitting protocols for review, evaluation and approval

The modified draft rule provides no formal path for submitting methodologies for review, evaluation and approval by ARB. An open, transparent process for reviewing, evaluating and approving offset methodologies is a necessary signal for the market to continue developing protocols (and projects) that will provide the offsets necessary for effective cost-abatement.

RECOMMENDATION: ARB should establish an open and defined mechanism through which offset project developers can submit new project types and methodologies for consideration. VCSA suggests that ARB consider adopting a process similar to that employed by the Australian Department of Climate Change and Energy Efficiency for inviting parties to submit methodologies for review and approval under that country's forthcoming Carbon Farming Initiative. Details about that submission process can be found at <http://www.climatechange.gov.au/government/initiatives/carbon-farming-initiative/methodology-development/methodology-guidelines.aspx>

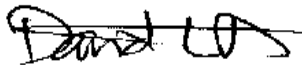
5. Eligible offset project types

VCSA notes that, with the exception of the placeholder language in Section 95990 regarding early action offsets, the modified draft rule still limits the number of offset protocols eligible for use in the California cap and trade program to the four project types already approved. Such a limitation places an unnecessary constraint on the market, stifling innovation, creating uncertainty among project developers and investors, and ultimately limiting the cost containment benefits that offsets offer to a cap and trade system. There exist a number of established carbon offset standards that have significant standing in the domestic and international carbon markets that stand as ready sources of protocols for ARB's consideration.

RECOMMENDATION: ARB should initiate an open, transparent process for evaluating and approving protocols from established, high quality carbon offset standards prior to the 2013 implementation of the cap and trade program.

Thank you again for the opportunity to provide input to this important regulation. Should you have any questions, please do not hesitate to contact me by telephone (+1 202 296 1427) or email (dantonioli@v-c-s.org).

Sincerely,



David Antonioli
Chief Executive Officer