



Blue SourceTM
A Leading Climate Change Portfolio

**Comments on Proposed Cap and Trade Regulation
and Compliance Offset Protocol for U.S. Forest Projects**

California Air Resources Board
Mary D. Nichols
Air Resources Board Chairman
1001 I Street
Sacramento, CA 95812

September 27, 2011

Dear Ms. Nichols:

We appreciate the opportunity to provide additional comments on the California Air Resources Board's proposed Cap and Trade Regulation and Protocol for U.S. Forest Projects under AB32. This effort is extremely important given the state's and ARB's leadership in climate policy design and implementation.

Moreover, the need for sufficient supply of offsets to "bridge the gap" while low-carbon energy and industrial solutions are further deployed makes a well-designed regulatory framework that fosters market development and implementation of multiple project types even more critical. We believe the attached comments, which focus on the provisions surrounding the use of forest-based offsets, help further that broadly shared goal.

Established in 2001, Blue Source has developed the largest portfolio of carbon credits and projects in North America, and transacted over 20 million tonnes in voluntary and compliance carbon markets. We are developing forest projects under multiple protocols and registries, and have registered and sold CRTs from the first CAR forest project outside California, verified under Forest Project Protocol 3.1.

We look forward to providing ongoing support to the Air Resources Board on forestry and other project types, as well as broader cap and trade initiatives. Please contact us if there is any clarification or additional information we can provide.

Sincerely,

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Cap and Trade Regulation Comments

§ 95802. Definitions.

109 – Forest Owner

179 – Offset Project Operator

The definition of Forest Owner is too broad, as it includes many parties lacking control over timber management and land conversion. Requiring parties such as recreation and mineral right holders, as well as easement-holding non-profit land conservation groups, to take on liability for future reversals and invalidations for which they are not responsible, will prevent many projects from transitioning to ARB and reduce the supply of offsets to the compliance market.

It also remains unclear in the definitions and body of the regulation, which specific forest owners bear responsibility for reversals and invalidations.

We recommend the definition of Forest Owner be amended to “parties with ownership interest in timber holdings and control of harvest or conversion decisions,” both definitions add clarification that it is the forest Offset Project Operator that is responsible for intentional reversal and invalidation obligations under the regulation.

§ 95802. Forestry Offset Reversals

Page A-271 (c)(3). It is not explicit or clear that liability for submittal of credits to compensate for intentional reversals is limited to the Offset Project Operator, not other Forest Owners.

We recommend this section be clarified by replacing “Forest Owner” and “forest owner” with “Offset Project Operator.”

§ 95985 Invalidation of ARB Offset Credits

Page A-278 (b)(1)(B). The ability to mitigate invalidation risk to three years by undertaking second verification is an important option for project operators and developers. However, this option is currently only available to projects verified against ARB’s Compliance Protocols. Projects verified under Early Action Offset programs are excluded. This exclusion will cause early action projects to trade at a discount, pointlessly reducing the supply of offsets to the compliance program.

We recommend Early Action Offset Program protocols, in particular the CAR Forest Project Protocol, be added to this section.

Moreover, the regulation as written would require a one-year delay in undertaking this second verification, a period in which the project’s credits would trade at a discount, again pointlessly reducing the supply of offsets to the compliance program.

We recommend ARB allow second verification to immediately follow first verification prior to initial registration.

Page A-288 (i)(1) & Page A-290 (i)(2). It is not made explicit or clear that the liability for replacement of invalidated forest offset credits in retirement accounts is limited to the Offset Project Operator, not other Forest Owners.

This limitation seems to be the purpose of references to “Forest Owner identified in Section 95985(e)(2)” but this is not clear or consistently applied across these sections. Moreover, in many cases it is possible that offset credits will be transferred into Retirement Accounts from entities other than the Offset Project Operator or any other Forest Owner.

We recommend these sections be clarified by replacing “Forest Owner” and “forest owner” with “Offset Project Operator.”

§ 95990. Recognition of Early Action Offset Credits.

Page A-310 (e)(3). Many owners of early action forest projects will be unable to transition their projects to ARB. Large volumes of otherwise ARB-compliant offsets, registered under ARB-approved protocols and registered with ARB-approved Early Offset Programs, will therefore be excluded from the compliance market. This is because holders of these credits will be unable to independently apply for ARB Offset Credits under the terms of this section. This is an unnecessary constraint as any risks associated with these offsets can be mitigated by other means.

We recommend that the holders of credits verified under ARB-approved Early Offset Programs should be issued ARB Offset credits subject to that holder’s assumption of all responsibility for regulatory verification requirements, as well as future invalidations and reversals not compensated for by the Early Offset Program’s risk mitigation approach.

Compliance Offset Protocol U.S. Forest Projects Comments

Page 10 – 2.1.3 Avoided Conversion Definitions and Requirements. This section requires Avoided Conversion projects use a Qualified Conservation Easement (or transfer to public ownership). For most if not all owners of forest projects with historic easements and start dates, it will be impossible to petition easement holders to bear the administrative and legal costs of evaluating potential new liabilities established by the addition of Qualification language, and then re-drafting, executing and registering the modified easement. As a result, credits from Avoided Conversion projects registered under Early Offset programs or with historic start dates will be almost entirely excluded from the AB32 compliance market.

We recommend that ARB modify the definition of Avoided Conversion projects to those “preventing the conversion of forestland to a non-forest land use by dedicating the land to continuous forest cover through a conservation easement or transfer to public ownership,” matching the definitions and requirements for Avoided Conversion projects of the Climate Action Reserve’s Forest Project (FPP 3.1 & 3.2, Section 2.1.3).