



July 13, 2010



Mr. Kevin Kennedy
Office of Climate Change
California Air Resources Board
1001 "I" Street
Sacramento, CA 95812

RE: Offsets in California's cap-and-trade program

Dear Mr. Kennedy,

We would like to express our appreciation for CARB's continued commitment to developing California's cap-and-trade program in an open and transparent manner and for providing this opportunity for public comment. We submit these comments in response to staff's update on offsets and linkage presented at the June 22nd workshop. We encourage CARB to make better use of its collaboration with the Climate Action Reserve (Reserve) and California Climate Action Registry (Registry) to establish consistent offset protocols and certification procedures that will better facilitate linkage.

I. CARB should work with the Climate Action Reserve and the California Climate Action Registry to ensure consistency and stability of offsets supply.

While offsets serve an important cost containing function, it is equally imperative that CARB ensure offsets conform to rigorous performance standards. The Reserve and Registry have developed offset protocols and registry and verification programs that are well-established as meeting high quality standards. To streamline and simplify the process moving forward, we ask that CARB make better use of its collaboration with these entities. Using the Reserve and Registry's protocols and programs will ensure high quality offsets are available at the start of the program and will provide a more effective framework to facilitate linkage with Western Climate Initiative (WCI) partners and other external programs.

a. Offsets should strive to fulfill the objectives of AB 32.

Any method of verifying and certifying offsets should meet the objectives of AB32, including achieving real, additional, verifiable and permanent reductions, and also maximizing public health and other environmental co-benefits. Protocols and certification processes should ensure an adequate supply of high-quality offsets that achieve these goals.

b. CARB should only accept offsets that meet high standards of rigor and reliability.

CARB should accept offset types that meet high standards of rigor and reliability. We support CARB's suggestion to use an incremental approach in which the program begins with a relatively restrictive list of qualifying protocols and then adds protocols as new, rigorous protocols become available.

c. CARB should rely on the Reserve to ensure high offset quality.

It is essential that CARB use consistent high quality protocols that establish rigorous performance standards. We encourage CARB to rely on the protocols established by the Reserve. These protocols have been carefully established through a thorough public process and are recognized as rigorous and high quality. CARB has a long history of collaboration with the Reserve, which is well-established in the national offset marketplace.

CARB should of course make any necessary changes to Reserve protocols as part of a CEQA review and to ensure that protocols developed for a voluntary market are sufficient to meet the standards required for compliance with AB 32. The Reserve should either conform their protocols to meet the requirements established by CARB or establish a mechanism to track additional CARB requirements (i.e. the Reserve could create a category of CARB-eligible offsets).

d. CARB should rely on the Registry for registration and verification of offsets to better facilitate linkage.

CARB should rely on the Registry's offset registry and verification programs. There is no need to replicate the infrastructure that the Registry has already put in place for these purposes – doing so would unnecessarily consume scarce CARB staff resources and time when there are already many demands on those resources. Using the Registry's established programs will also make it easier to link with WCI partners who are using the same programs. If each WCI partner decides to establish their own protocols and registry, it will create an impossible unwieldy and difficult to reconcile system. If everyone uses the Reserve and the Registry, we can move forward smoothly.

II. CARB should establish clear and strong enforcement mechanisms.

Developing clear and transparent enforcement mechanisms will be critical in maintaining the integrity of the cap. Equally important is minimizing the need for enforcement, which CARB can help facilitate by developing clear and stringent offset requirements, employing a strong verification program, and instituting broad disclosure requirements to facilitate identification and selection of high quality offset projects. But both offset vendors and compliance entities must be held liable for any failure to comply. Offset vendors should be liable for failure to perform, fraud, malfeasance, etc., which could be enforced through CARB as well as the courts. Similarly, buyers must be responsible for remedying any shortages in compliance, including use of invalid offsets. CARB should not assume the risk of offset performance failure when buyers can easily protect themselves against loss through contract provisions or insurance. CARB should not impose the risk of regulatory change, however, on offset buyers and sellers. An offset credit that was in compliance when it was created should not be found ineligible as a result of later regulatory changes, until the end of a crediting period.

Thank you again for providing this opportunity for comment.

Sincerely,

Peter Miller
Natural Resources Defense Council

Shankar Prasad
Coalition for Clean Air

Marisa Rimland
Public Health Institute