

**Comments of the Western Power Trading Forum
To the California Air Resources Board
On Criteria for Compliance Offsets
In A Cap and Trade Program**
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The Western Power Trading Forum¹ (WPTF) appreciates the opportunity to provide input to the California Air Resources Board (ARB) on criteria for compliance offsets in the greenhouse gas cap and trade program. WPTF considers offsets to be an important cost-control mechanism for the cap and trade program. For this reason, we support the establishment of offset rules that are clear, straight-forward and minimize transaction costs for participants in the offset market. Our comments on the issued posed by ARB staff at the April 28th meeting are provided below. We look forward to providing additional comments on offset issues as ARB's work in this area progresses.

Approach to recognizing non-California offsets

At the April 28th meeting, ARB staff indicated that their preliminary thinking is that offsets would be allowed from California projects and from other jurisdictions that have agreements with California, subject to any criteria established by ARB for accepting offsets from other jurisdictions.

As WPTF understands this proposal, offsets generated outside of California would only be allowed if the host jurisdiction has a bilateral linking agreement with ARB. While the goal of such an approach may be consistent with the Scoping Plan's² decision to allow high-quality offsets from outside of California, regardless of the location, it will be administratively burdensome and likely to restrict the availability of non-California offsets in practice.

Rather than require a bilateral agreement with other host jurisdictions, WPTF recommends that ARB staff establish appropriate criteria for eligible offsets from both inside and outside California, covering elements such as monitoring, verification, baselines and tracking. ARB should then make a periodic assessment and determination of offset programs that meet these criteria. Offsets issued from these approved programs would automatically be eligible for compliance use in California (subject to the 49% limit). The administer of the allowance/offset tracking system should be directed to cooperate with other 'approved' offset programs to receive offset credits from their respective tracking system and ensure that these offsets are not double-used.

Ownership of offsets

ARB staff indicated that they are considering whether it is necessary for the cap and trade regulation to require a contract or specific contractual arrangements to define ownership of offsets. Establishment of clear ownership rights will be essential for the development and functioning of the offset market. However, WPTF recommends that ARB not attempt to define contractual requirements for offset ownership in the cap and trade regulation.

¹ WPTF is a diverse organization comprising power marketers, generators, investment banks, public utilities and energy service providers, whose common interest is the development of competitive electricity markets in the West. WPTF has over 60 members participating in power markets within the WCI member states and provinces, as well as other markets across the United States.

² Scoping Plan at page 38

Rather, the regulation should provide that the entity with operational control of the offset project is the initial owner of offset credits, unless the contractual arrangements of the project developers states otherwise.

WPTF also urges ARB to ensure that offset credits are fully transferable and fungible with emission allowances within the cap and trade system. The ownership and disposition of both offsets and allowances should be tracked through a single electronic tracking system.

Specification of AB32 criteria

Assembly Bill 32 requires that offsets be real, permanent, quantifiable, verifiable, enforceable and additional. As part of the cap and trade rulemaking, ARB is considering the level of detail needed in the regulation to give effect to these requirements. Specifically, ARB staff indicated they are considering whether a regulatory definition is required from each term or whether these requirements can/should be addressed through establishment of corresponding procedures.

WPTF notes that while it may be possible to define some of these terms, such as real or additional, in the regulation, these definitions are not likely to provide sufficient clarity and certainty regarding implementation of these requirements for offset providers and users. Further, while terms such as verifiable and enforceable may be definable, they have no meaning unless accompanied by specific rules and procedures for verification and enforcement. Therefore, WPTF recommends that the criteria established by AB32 be addressed through the establishment of specific procedures and requirements that give effect to these criteria, rather than through a definitional approach. We do not have substantive recommendations on the appropriate procedures and requirements at this time.

Enforcement of offset rules

WPTF supports establishment of an allowance and offset credit tracking system to track ownership of offset credits, ensure against double-counting of emission reductions and provide transparency. We agree that the cap and trade regulation should provide ARB with the authority to investigate and take action for violations of offset program rules by project developers and third-party verifiers.

WPTF also supports the establishment of provisions to ensure that offset users (i.e. capped entities) comply with program requirements, including applicable market rules. However, we would oppose any extension of liability for the validity of offset credits to offset purchasers. Rather, ARB should ensure that once an offset credit has been issued or certified by California, it is valid in perpetuity and can not be revoked under any circumstances. Such certainty is essential to ensure a viable offset market.

Additionality

A further question raised by ARB staff is how to ensure that emission reductions (or removals) from offset projects are additional to what would have occurred in the absence of the project. ARB staff indicated that their preliminary thinking is to use a standardized method, such as a performance benchmark, to assess the ‘additionality’ of emission reductions or removals for particular project types. Staff also indicated that standardized methods could be supplemented by regulatory and financial additionality tests (e.g. are emission reductions required by law, would emission reductions have occurred without project investment).

WPTF strongly supports the use of standardized additionality tests, because it is simpler to administer and has lower transaction costs for project developers than a project-by-project approach. The fact that the Kyoto Protocol’s Clean Development Mechanism has relied on a project-by-project approach to assessing additionality is widely viewed as being a major factor in the delays and backlog for project approvals under that mechanism.

WPTF also recognizes a standardized approach may not be sufficient to ensure additionality in some circumstances. For instance, a performance benchmark alone is not sufficient if achievement of that benchmark is due to existing regulatory mandates. Therefore, we also support the use of a regulatory additionality test to supplement a standardized approach. However, WPTF opposes the use of a financial additionality test. Financial additionality is an ambiguous concept that is difficult to objectively assess in practice and potentially subject to gaming by project developers. ARB should not apply financial additionality as a condition for offset project approval.

Baseline, estimation methodologies and monitoring

ARB staff indicated that to the extent possible, standardized methodologies would be used for estimating baselines and emission reductions for similar projects, and common monitoring requirements applied. WPTF supports this general approach as it will reduce administrative burden of implementing the program and the transaction costs for offset issuance.