



## Union of Concerned Scientists

Citizens and Scientists for Environmental Solutions

June 8, 2009

VIA E-MAIL: [ccworkshops@arb.ca.gov](mailto:ccworkshops@arb.ca.gov)

Brienne Aguila  
California Air Resources Board  
1001 "T" Street  
Sacramento, CA 95812

### **Re: Criteria for Compliance Offsets in a Cap and Trade Program**

Dear Ms Aguila,

UCS would like to thank the California Air Resources Board (CARB) for its thoughtful April 28 presentation on establishing criteria and parameters for the use of offsets as compliance mechanisms for the state's legally mandated global warming emission reductions. We appreciate the opportunity to provide feedback and comments on this critically important topic.

#### **AB 32 Requirements**

There are several key provisions in AB 32 that need to be taken into account in the design of the compliance offsets program. First, the legislature clearly intended the emission reductions to occur in the state. This intent is embodied in the AB 32 emission limit itself, which is defined as the maximum allowable level of emissions *in the state*. (HSC §38505 (m-n)). The CARB Board re-emphasized the importance of in-state reductions in its December 11, 2008 Resolution, stating, "the board recognizes that consistent implementation and enforcement of greenhouse gas emission reduction programs is crucial to minimize administrative burdens and that the future cap-and-trade program, including reporting and verification of offsets, should be administered at the state level."

AB 32 stresses the importance of designing the emission reduction measures to achieve environmental and health related co-benefits in the state. The bill references air quality and other local co-benefits in four different sections of the law.<sup>1</sup>

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<sup>1</sup> **HSC § 38501:** AB 32 declares that "it is the intent of the legislature that the State Air Resources board design reduction measures...in a manner that minimizes costs and maximizes benefits for California's economy, improves and modernizes California's energy infrastructure..., maximizes environmental and economic co-benefits for California, and compliments the state's efforts to improve air quality."

**HSC § 38562:** To the extent feasible, the board shall design regulations...in a manner that:

- is equitable, seeks to minimize costs and maximize total benefits to California...
- does not disproportionately impact low income communities



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In addition to requiring that all emission reductions are real, permanent, quantifiable, and verifiable, AB 32 also clearly requires all emission reductions to be “enforceable by the state board.” (HSC §38562 (d)(1)) This means that CARB must have the ability to investigate and have the legal authority to take action for violations and non-compliance by offset project developers, verifiers, and offset users.

These factors support the design of an offsets program that curtails offsets from outside the state. Out-of-state offsets that are allowed should be limited to those that can be accurately monitored for quality assurance by CARB and meet all AB 32 criteria and other criteria established by CARB, including the requirements of the offset protocols that CARB adopts. CARB should develop a mechanism for prioritizing offset projects that result in emission reductions or co-benefits within the state.

### **Additionality**

UCS supports a standardized and science-based (where possible) approach to determining additionality, and standardized methodologies for establishing baselines. Project-based, subjective assessments such as deployed in the CDM have proven to be problematic and have allowed a large percentage of non-additional projects to receive support and funding.<sup>2</sup> The evidence suggests that two-thirds or more of the CDM offsets may not represent real and additional reductions and this has created a “bad reputation” for offsets in general and caused doubt to be cast on projects that may be real, effective, and deserving of support. The purchasers of these non-additional credits have jeopardized the integrity of national emission caps that were set in order to avoid the most catastrophic impacts of global

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- compliments and does not interfere with efforts to achieve and maintain federal and state ambient air quality standards and to reduce toxic air contaminants
  - considers the overall social benefits, including reductions in other air pollutants, diversification of energy sources, and other benefits to the economy, environment, and public health

**HSC § 38565:** To the extent feasible, regulations should direct public and private investment toward the most disadvantaged communities in California

### **HSC § 38570:**

- Market mechanisms may be included after consideration of the potential for direct, indirect, and cumulative emission impacts, including localized impacts in communities that are already adversely impacted by pollution
- Design any market compliance mechanism to prevent any increase in the emissions of toxic air contaminants or criteria air pollutants.
- Market mechanisms should maximize additional environmental and economic benefits for California, as appropriate.

<sup>2</sup> e.g.: Wara MW, Victor DG. 2008. *A realistic policy on international carbon offsets*. Rep. PESD Working Paper #74, Program on Energy and Sustainable Development, Stanford University, Stanford, CA



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warming since these offsets allowed emissions in capped nations to be higher than the prescribed targets.

If a project developer would like to submit an idea for a new project not covered by an existing protocol, CARB should consider if a new protocol could and should be developed to cover that project. Protocols should be developed for project types that are likely to generate a substantial amount of reductions. Only once a standard protocol is developed using a public and transparent process and approved by the CARB Board should that project be allowed to generate credits for compliance with California global warming regulations.

### **Verification**

Offset projects should be verified annually, except for forest-based sequestration projects, which could be verified every three to five years. This requirement will ensure that the project is being implemented in accordance with programmatic requirements and that emission reductions are being adequately tracked, recorded, and substantiated.

UCS will submit further comments on verification in our comments responding to the May 21 workshop on Reviewing and Approving Offset Projects and Protocols.

### **Crediting period**

UCS recommends a maximum five-year crediting period with an option for renewal. Before a crediting period is renewed, CARB must review methodologies and inputs used to project conservative baselines and make adjustments for changes in common practice, regulations that may have come into effect, technology shifts, economic barriers, etc. Due to changing circumstances, some projects may no longer qualify for renewal at the end of a crediting period.

For instance, if a methane digester protocol is adopted by CARB for compliance offsets and a five-year crediting period is established, offset credits from a methane digester project would be valid for five years, even if the state passes a law or adopts a regulation during that time mandating the use of digesters. However, once the crediting period is over and the law or regulation mandating the use of digesters is in effect, a renewal for offset credits from that digester project would no longer be eligible for credit since that practice has become required.

AB 32 requires that greenhouse gas emissions exchanges, credits, and other transactions must occur over the same time period as direct compliance with the state's global warming emission reduction policies. (HSC §38505 (2), HSC §38562 (d)(3)). This indicates that the legislature intended for eligible vintage dates to begin when the cap takes effect in 2012.



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### **Other Criteria**

#### *No Environmental or Social Harm*

CARB should adopt offset criteria that ensure that offsets that are used for compliance with California regulations do not cause significant environmental or social harm. Many of the offset projects that sold credits through the Clean Development Mechanism and in the voluntary markets have caused serious human and ecological harm—including poor people being forcibly displaced to make way for land flooded by dams and indigenous forest people being displaced to plant monoculture tree plantations.

#### *Public Process/Transparency*

A meaningful process for seeking, considering, and responding to public comment, including comment from community members living near or potentially affected by the offset project, should be developed and implemented as part of the process of deciding on project types and prioritization of project types, developing and adopting protocols and methodologies, issuing credits, and enforcement activities.

Offset project documents must be publically accessible in a timely manner. The public must be able to easily access information about the project, the protocols and methodologies that were used, its tracking number, if, when, and by whom it has been purchased, which entity has used it for compliance purposes, its selling price, the amount of reductions it represents, and any audit or enforcement activities related to the project.

Thank you for consideration of our comments on this issue. We look forward to working with you throughout the remainder of the rule-making process.

Sincerely,

Erin Rogers  
Manager, Western States Climate Campaign