



December 15, 2010

California Air Resources Board
Attn: Kevin Kennedy
1001 I Street
Sacramento, CA 95812

Via web submission

Dear Mr. Kennedy and ARB Staff:

Equator LLC is grateful for the opportunity to provide comments on California's cap and trade program rules. The draft regulations set out many provisions that will pave the way to a robust greenhouse gas market. We applaud the ARB's continued hard work and leadership to develop these regulations. Below we have provided some constructive suggestions and comments which, in our view, will improve the efficiency and transparency of the program, with emphasis on Early Action offsets, forest offsets, and verification requirements.

Equator is an integrated timberland and environmental asset management and advisory company. Our asset management division, Equator Environmental Markets (EEM), specializes in the generation and management of high quality carbon credits and other environmental assets derived from reforestation, REDD, forest conservation, sustainable land management, and other land management activities. Equator's second business line, The Timber Group, LLC originates and manages forestry investments to produce competitive timber returns and generate additional revenues through sustained flows of environmental assets.

Early Action Offsets

Early Action projects should be given a full crediting period¹: Equator supports ARB's plan to bring credits into the program for early action from projects using four CAR project protocols for vintages 2005 - 2014. This is an important step towards securing adequate supply of offsets for this program. It is essential, however, to ensure that existing and new projects can count on certainty of long term eligibility under ARB. To this end, we strongly encourage ARB to allow projects to have a full crediting period under the protocol and registry that they were originally registered under. Transferring into ARB in 2014 will undoubtedly require certain administrative changes, and submitting to ARB's regulatory enforcement will also be understandably part of acceptance into the ARB system. However, this transfer into the ARB system should not include re-verification under ARB project protocols as this would, in

¹ Section § 95977



many cases, change project baselines for no practical or beneficial reason. Updating baselines would, in some cases, make projects no longer eligible since certain actions taken (e.g., voluntarily placing a conservation easement on a forest) after the project's original registration could result in drastically different legal constraints in the baseline. As the ARB's staff report correctly observes, this type of grandfathering provides a stable regulatory environment that is critical for facilitating investment into offset projects².

Re-verification for Early Action must be streamlined: ARB requires site-based re-verification of CRTs, in addition to CAR verifications, before CRTs can be transferred into the ARB system. Equator strongly urges ARB to consider a more straightforward and less costly approach to early action credit re-verification. Specifically, we suggest limiting the scope of the re-verification review to simply confirm that projects comply with ARB requirements, and that the CAR verification results have been sufficiently robust. We agree, however, that a more in depth review, including project site visits, is warranted in cases of clear and material misstatements or errors.

ARB offsets program

Verifier Replacement³: ARB's proposed conflict of interest regulations require an offset project operator or project designee to change the verifier they use every six years, to a verifier that has not been used in the previous three years. Applying this rule to a project operator, who may manage or own multiple projects, is likely to result in significant delays in offset supply due to lack of qualified verifiers. Equator suggests that ARB change this requirement so that periodic changes in verifiers are required for projects, but not for project operators.

Verification deadline: ARB proposes to disallow issuance of offsets in cases where a final Verification Statement is submitted after a certain calendar date. Further, ARB has proposed a deadline associated with the submission of Offset Project Data Reports, which also, if not met, will result in the disqualification of offsets (for that verification year). This penalty is extremely harsh. Offset projects are often subject to technical issues or questions of protocol interpretation, which can result in lengthy resolutions, occasionally leading to public consultation or expert review. Further, it is not out of the ordinary for projects to require additional measurements, modeling or instrument calibrations. In many of these cases the project is robust, fully operational, and generating high quality offsets, and is only lacking in technical evidence that can take time to develop. Also, delays can, and often are, caused by verifiers themselves, at no fault of the project operator. Equator strongly urges ARB to modify this rule.

Verification requirements will result in unworkable costs: Section § 95977 indicates that two site visits must be performed in the first year of a project's crediting period, which will double the verification costs and make most projects financially infeasible. In addition, this section requires

² Staff Report: Initial Statement of Reasons ("Staff Report"), Part I, Volume I at III-8 – III-9

³ Appendix A: Proposed Regulation Order ("Proposed Order") § 95979 at A-145 - A-148



that verifiers must replicate offset calculations for each project, as well as re-processing data to compare results with those of project owners. In the case of forest projects, complex and expensive models are used to calculate offsets, and would result in prohibitively costly verifications for these projects. Equator suggests that ARB reconsider requiring costly and onerous verification requirements, and recommends deferring to the verification requirements of the Climate Action Reserve's Forest Project Protocol.

Forest projects and Forest Protocol

Double counting reversals⁴: Equator supports ARB's proposal to establish a buffer reserve to compensate for unintentional reversals, and for project operators to compensate for lost offsets in cases of intentional reversals. However, Section 95985 suggests that in cases where reversals occur, offsets that have already been issued will be canceled, *in addition to* being compensated by the buffer or project operator through the proposed replacement provisions. This unnecessary double compensation for reversals will result in an illiquid market for forestry offsets since buyers will either avoid or discount these credits due to their unknown risk of reversal. Further, reversals often are small, and will require only minimal quantities of offsets to be compensated. In this case it would be impossible to determine which already issued offsets should be canceled, and which should remain intact. Equator urges ARB to use only replacement provisions to compensate for reversals.

Reversals should not automatically cause termination: Equator recommends that ARB harmonize the language related to intentional reversals in forestry projects. The Proposed Regulation Order indicates that a project is automatically terminated if an intentional reversal occurs⁵. The ARB Forest Protocol, however, correctly indicates that projects are not automatically terminated in cases of reversals as long as carbon stocks remain above the approved project baseline, and, provided that the reversals are compensated⁶. As long as carbon stocks remain above the baseline, projects can continue to generate real and additional offsets, and therefore should not be automatically terminated. We urge ARB to adopt the approach taken in the Forest Protocol and make the language consistent in both the Regulation Order and the Protocol.

Desk based verifications should be allowed⁷: Equator suggests that ARB modify its proposal to only require a verification site visit to forest projects every sixth year. Updated model outputs, maps and carbon calculations can be readily reviewed and verified without the need for a costly site visit. If a verifier, at any time, believes that a site visit is needed due to changes in management, reversals or other technical deviations this is at their discretion. However, Equator does not believe that an annual

⁴ § 95985, Proposed Order at A-160 – A-161

⁵ § 95983, Proposed Order at A-159

⁶ Section 7.4 of ARB Forest Protocol

⁷ Section §95977



site visit is warranted, and will only result in increased costs without contributing to the overall rigor of the system.

Definition of Logical Management Unit: In section 6.2.1.1 of the ARB Forestry Protocol projects with initial carbon stocks below regional common practice must compare project stocks with stocks of a “Logical Management Unit” to ensure that project stocks are not significantly lower than similarly managed land under the same ownership. While this is a reasonable approach to ensure that carbon offsets will be additional to realistic estimates of initial onsite stocking levels, the definition of the Logical Management Unit is a concern. Specifically in cases where even aged management is utilized, project owners must identify a Logical Management Unit that has an excessively strict age distribution requirement by area. In many cases land owners will be unable to identify a Logical Management Unit that meets this requirement. It is not clear why a Logical Management Unit must meet strict age distribution requirements since the purpose of identifying this Unit is to ensure that project stocks are not excessively low, and nothing more. Forest projects are subject to extensive requirements related to age class distribution, species composition and harvest unit size. Equator supports these requirements for projects, but urges ARB to remove or modify requirements of this sort for areas outside of the project area.

Again, Equator appreciates the opportunity to submit comments to ARB, and we look forward to the development of a successful cap and trade program in the coming months. If you have any questions or wish to discuss these comments please do not hesitate to contact us.

Kind regards,

Jessica Orrego
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Equator LLC