

Via Web Submission

August 11, 2011

Clerk of the Board
California Air Resources Board
1011 I Street
Sacramento, CA 95814

Re: First Environment 15-day Comments on Cap and Trade Regulations

Dear Air Resources Board:

First Environment, Inc. (First Environment) supports the California Air Resources Board (ARB) as it continues development of its Cap and Trade Regulation and other regulations implementing Assembly Bill 32 (AB32).

Internationally recognized as a high-quality provider of GHG verification services, First Environment proudly holds the distinctions of being:

- the first firm approved to provide verification services to the participants of the California Climate Action Registry (CCAR);
- among the first firms to be accredited to the international standard ISO 14065 by the American National Standards Institute (ANSI) to provide greenhouse gas inventory verification services; and
- one of the very few firms to actually conduct full verifications of 2008 Mandatory GHG Reports to the California Air Resources Board (ARB).

In addition, our GHG verification services have received industry acknowledgements including:

- Environmental Finance's 2011 Best Verification Company for Voluntary Markets;
- Environmental Finance's 2008, 2009 & 2010 Best Verifier for North American Mandatory Markets, and
- Point Carbon's 2009 No. 1 ranked verifier in North American markets.

Relative to our recognized leadership and expertise in verification in North America, First Environment is pleased to provide the following comments regarding verification issues within the 15-Day Draft of the Modified Text for the Proposed California Cap on Greenhouse Gas emissions and Market-Based Compliance Regulation.

New Jersey

California

District of Columbia

Georgia

Illinois

Mississippi

New York

Puerto Rico

Canada



1. Generally regarding 95977.1, while the requirements for offset verification services identified in the regulation roughly corresponds to the verification approach contained in ISO14064 Part 3 (the standard) which represents recognized international best practice regarding the performance GHG verification, the regulation's requirements omit several steps specified by the standard. These omissions include but are not limited to, notably, an initial strategic review, and more significantly, the assessment of the GHG information system and its controls, an assessment which originates from financial auditing, from which GHG verification best practices were derived. In addition, the regulation lacks the detailed guidance regarding the performance of verification activities contained in Annex A of the standard.

For these reasons, we believe that the verification process as presented in the Cap and Trade Regulation does not meet the standard of international best practice. Recognizing that activities implemented under AB32 provide an example to other North American programs and beyond, we strongly encourage ARB to ensure the regulations is consistent with international best practice by either incorporating all of the requirements of ISO 14064 Part 3 into the regulation, or incorporating its requirements by reference to the standard.

2. Regarding "15-day changes" to 95977.1(b)(1)(C), we would request that the regulation be revised to specifically identify what is meant by "documentation that the offset verification team has the skills required to provide offset verification services."

3. Regarding "15-day changes" to 95977.1(b)(3)(A), we request the language in the regulation be changed to indicate that "The Offset Project Operator or Authorized Project Designee must provide to the verification team the following information necessary to develop an Offset Verification Plan" instead of specifying that the verification team must obtain this information since the list that follows is clearly information that the Offset Project Operator or Authorized Project Designee would possess and could provide.

4. Regarding "15-day changes" to 95977.1(3)(D)1., the list of activities identified includes items that, because of aspects of the actual assessment performed, may be performed more accurately or efficiently during a desktop review not during the actual site visit. While we would agree that the following represent reasonable and appropriate site visit activities:

- c. confirm that the offset project boundary is appropriately defined;
- e. assess the operations, functionality, data control systems, and review GHG measurement and monitoring techniques;

we assert that the following activities are not either appropriate for a site visit or more accurately and efficiently performed during off-site desktop review and, therefore, should be removed from this clause of the regulation:

- a. assess offset project eligibility and additionality according to Section 95973 and the applicable Compliance Offset Protocol;
- b. review the information submitted for listing pursuant to Section 95975;
- d. review project baseline calculations and modeling;
- f. confirm that all applicable eligibility criteria to design, measure, and monitor the offset project conforms to the requirements of the applicable Compliance Offset Protocol.

5. Regarding "15-day changes" to 95977.1(3)(D)2., the list of activities identified includes items that, because of aspects of the actual assessment performed, may be performed more accurately or efficiently during a desktop review, not during the actual site visit. While we would agree that the following represent reasonable and appropriate site visit activities:

- a. check that all offset project boundaries, GHG emissions sources, GHG sinks, and GHG reservoirs in the applicable Compliance Offset Protocol are identified appropriately;
- c. interview key personnel involved in collecting offset project data and preparing the Offset Project Data Report;
- d. make direct observations of equipment for data sources and equipment supplying data for GHG emission sources in the sampling plan determined to be high risk;
- e. collect and review other information that, in the professional judgment of the team, is needed in the offset verification process;

we assert that the following activities are not either appropriate for a site visit or more accurately and efficiently performed during off-site desktop review and, therefore, should be removed from this clause of the regulation:

- b. Review and understand the data management systems used by the Offset Project Operator or Authorized Project Designee to track, quantify, and report GHG reductions, GHG removal enhancements, or other data required, as applicable in the Compliance Offset Protocol. This includes reviewing data collection processes and procedures, sampling techniques and metering accuracy, quality assurance/quality control processes and procedures, and missing data procedures. The offset verification team member(s) must evaluate the uncertainty and effectiveness of these systems.
- f. Confirm the offset project conforms with all local, state, or federal environmental regulatory requirements pursuant to Section 95973(b).
- g. Review all chain-of-custody documents as required in the Compliance Offset Protocol, if applicable.
- h. If the offset project is found by the offset verification team to not meet the requirements of Section 95977.1(b)(3)(D)(2.)(f.), the offset project is ineligible to receive ARB offset credits or registry offset credits for GHG reductions or GHG removal enhancements quantified and reported in the Offset Project Data Report.

6. Regarding "15-day changes" to 95977.1(b)(3)(D)(2.)(f.) and 95977.1(b)(3)(D)(2.)(h), we request that the language in the regulation very clearly and explicitly identify what is required relative to these assessments as similar regulatory reviews under voluntary programs have lacked clear guidance regarding this issue.

7. Regarding "15-day changes" to 95977.1(b)(3)(E), this clause references a review of the GHG emissions inventory which we do not believe is intended in this section on offset verification services and request that the language be removed from the regulation.

8. Regarding "15-day changes" to 95977.1(b)(3)(G)2., while the intent of this requirement is clear within the context of an emissions report for the MRR, it is not clear relative to projects since most have a single primary source of GHG emissions. We request the removal of this clause or if it is still considered important, we'd request additional

clarification in the regulations regarding the performance of this ranking in the context of emission reduction projects.

9. Regarding "15-day changes" to 95977.1(b)(3)(L)3, while we agree the list included within this clause includes data checks that could be performed for a particular source, not all of them would be necessary, appropriate, or efficient to confirm the accuracy of source data so we would request that "at a minimum a data change must include the following" be changed to "at a minimum a data check may include one of the following."

10. Regarding "15-day changes" to 95977.1(b)(3)(L)(4), we believe it is unclear what is meant by "any discrepancies must be investigated" in this context and request that the language be revised to "any discrepancies must be identified."

11. Regarding "15-day changes" to 95977.1(b)(3)(M), please provide clarification in the regulation regarding what is meant by "make any possible improvements or corrections to the submitted Offset Project Data Report" since what could be considered "possible" could be subject to different interpretations.

12. Regarding 95979(b)(3), we request that regulation includes clarification regarding what constitutes an "incentive" as defined under this clause.

13. Regarding "15-day changes" to 95986(h) and 95986(i), recognizing roles that the registries are asked to perform in the regulation relative to the verification process and knowledge necessary to perform this role, we believe that it is reasonable to include in the regulation that all registry management and all registry staff complete training and pass an examination in not only all Compliance Offset Protocols, but also complete ARB approved general verification training and pass an examination.

14. Regarding "15-day changes" to 95987(f), we would request that ARB clarify in the regulation what is meant by report "completeness" as we believe this term is subject to differing interpretation which could affect the quality and consistency of the required review.

15. Regarding "15-day changes" to 95987(e)(1), we assert that checks (B) and (C) are neither necessary nor appropriate for determining whether offset project verification was performed consistent with requirements of the regulation and request these clauses be removed from the regulation.

16. Regarding "15-day changes" to 95987(e)(1)(F)(1), we feel that this check is unnecessary since the verification body has already attested to this information per 95979(e)(3)(F) and request these clauses be removed from the regulation.

17. Finally, regarding 95987(e), we note that most major U.S. carbon registries which could be expected to serve as registries under ARB's cap and trade program and perform this audit function have previously signed MOUs with the American National Standard Institute to accredit verification bodies and audit the verification body verification activities. We believe that this demonstrates the registries' acknowledgement of ANSI's competence and value in performing this activity. We encourage ARB to likewise consider ISO 14065 as the standard of accreditation for verification bodies under the cap and trade regulation and assign responsibility to accredit and audit offset project verification bodies to the American National Standards Institute.

If you have questions about these comments or further discussion would be helpful, please do not hesitate to contact me or Tod Delaney. We appreciate the opportunity to provide these comments for the consideration of the Air Resources Board.

Very truly yours,

FIRST ENVIRONMENT, INC.

A handwritten signature in black ink, appearing to read "Jay Wintergreen". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Jay Wintergreen
Senior Associate