



55 Hawthorne Street, Suite 610
San Francisco CA 94105

T 800.764.8093
F 888.358.1339
E info@eosclimate.com

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Dr. Steven Cliff
Climate Change Program Evaluation Branch
California Air Resources Board
Sacramento, CA

Dear Dr. Cliff:

EOS Climate (EOS) would like to provide the following comments on the March 21, 2014 proposed amendments to the California Cap and Trade Regulation:

1. Section 95973(b) – Regulatory Compliance:

EOS supports the proposed language clarifying that offset projects must demonstrate compliance with regulatory requirements directly applicable to the offset project during the Reporting Period. However, as currently proposed, the Regulation does not define the start of offset project activities. This creates a number of potential uncertainties for project developers, verifiers, and ARB. For Ozone Depleting Substances (ODS) projects, EOS believes that point of origin determines the start of the chain of custody requirements and eligibility of the material, however, it does not always define the start of project activities undertaken by the Offset Project operator. There is an active refrigerant aftermarket in the U.S. such that ODS may have been recovered, transferred, and transported prior to, and independent of, destruction project activities. Since ODS material can be resold to this aftermarket, ARB should define project activities as when the Offset Project Operator (OPO) takes control of the movement of refrigerant or title to the ODS for a project, which should also be the point in time that regulatory compliance becomes relevant.

Furthermore, Section 95973(b) does not define how credits will be issued if a compliance violation was recorded for a limited time within a longer Reporting Period. There may be cases of non-compliance that do not span an entire Reporting Period and the instance of non-compliance has no impact on the other activities during the Reporting Period. We suggest that ARB explicitly state that it will retain the discretion to withhold issuance of offset credits for specific times of non-compliance and amend the language as follows:

“If an offset project is not in compliance with regulatory requirements directly applicable to the offset project during a portion of the Reporting Period, the Offset Project Operator should be able to subtract any emission reductions that were generated during the time of non-compliance from the project’s total emission reductions. ARB will issue offset credits only for the activities completed during the Reporting Period when the project was in compliance.”

2. Sections 95975(g), 95977.1(b)(1), and 95979(f)(1) all propose that ARB has 30 calendar days to review each of the following forms: Project Listing, Notice for Offset Verification Services (NOV), and Conflict of Interest (COI). EOS believes that this 30-day review period per form is excessive and will unnecessarily

lengthen the project cycle. The delays in credit generation put a significant financial burden on OPOs and impair their ability to efficiently complete projects and deliver credits to meet market demand. We recommend that the current 10-day timeline be retained for the NOV and COI forms.

3. Section 95977.1(a)(1) specifies that after the verification of six consecutive projects, an OPO must complete three full verifications with a second verifier prior to using the initial verification body again. EOS is supportive of the verification body rotation, however, the proposed rotation frequency will place significant pressure on a very limited number of verification bodies and will likely affect OPOs ability to complete projects within a reasonable timeframe. In addition, it is unclear on whether the proposed verifier rotation requirement would apply to an individual project starting with initial generation of “ARBOC(8)” credits (credits with 8-year invalidation risk) and extend to the conversion of ARBOC(8) to “ARBOC(3)” credits, which the market is demanding. We recommend that ARB clarify that the requirement for verification body rotation for generation of ARBOC(8) offsets and for conversion of ARBOC(8) credits to ARBOC(3) credits are independent of one another.

4. Section 95981(c) specifies the following:

“ARB will determine whether the GHG emission reductions and GHG removal enhancements meet the requirements of section 95981(a), the information submitted in sections 95981(b) and (c) is complete, and the Positive Offset or Qualified Positive Offset Verification Statement meet the requirements of sections 95977, 95977.1, and 95977.2 within 45 calendar days of receiving ~~complete and accurate information~~.” In order to avoid significant delays in the credit generation process, we recommend a requirement for ARB to notify the OPO of incomplete or inaccurate information within a 10 calendar day period of receiving the initial project documents.

5. Section 95981.1(d)(2) states that the OPO or verification body must submit requested information within 10 calendar days of ARB’s request. EOS appreciates the intent to streamline the approval process, however, 10 days would be insufficient in certain circumstances. For example, the lead verifier involved could be unavailable (e.g. conducting other verifications, on a site visit for another client, or on vacation for several weeks) or additional data may be required from third-party agencies that are not required to respond within 10 days. We suggest increasing the deadline to 90 calendar days.

6. Section 95981.1(f) The regulation states that ARB will transfer ARBOCs into the holding account of the OPO within 15 working days of the notice of determination. In order to keep the ARB timeline consistent with the issuance, notice of determination, and reduced invalidation timelines, and to reduce confusion, EOS proposes that the transfer should commence within 15 calendar days.

7. Given that Sections 95985 and 95990 are silent on timelines for completion of desk reviews and invalidation verifications, it would benefit OPOs and ARB to define timelines for reviewing the submitted desk reviews for Early Action Offset Projects and submitted reduced invalidation project verifications . While timelines are defined for the registries and direct to ARBOC project generation, EOS recommends that timelines be defined in the regulations. In the absence of regulatory timelines, early action projects approvals have taken in excess of 6 months from time of submission, resulting in major disruptions to OPO operations, finances, and market participation.

For example, in Section 95985(b)(1)(A)(2)(d), we suggest the following addition in italics:

“The Offset Project Registry has an additional 15 *calendar* days to submit its report to ARB. ARB will review the Offset Project Registry report and, *within 45 calendar days*, determine based on the

report and all the information submitted by the verification body and Offset Project Operator or Authorized Project Designee, if applicable, if the invalidation timeframe will be reduced. During its review, ARB may request additional information, *clarifications*, and revisions to the materials, if necessary.”

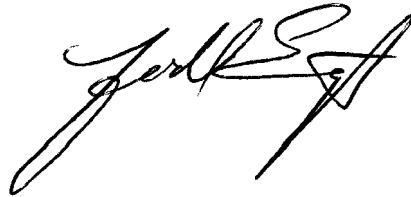
Similarly, in Section 95990(f)(3)(F), we suggest the following addition in italics:

“ARB will review the desk review findings submitted by the desk review verification body *and within 45 calendar days notify the Offset Project Operator on its determination* whether to accept or reject the findings.”

Thanks for the opportunity to participate in this important program.

Sincerely,

Todd English
VP Operations

A handwritten signature in black ink, appearing to read 'Todd English', with a stylized, flowing script.