



TO: Richard Corey  
Executive Officer  
State of California  
Environmental Protection Agency  
CA Air Resources Board (ARB)

FROM: Debbie Reed, Executive Director  
Coalition on Agricultural Greenhouse Gases (C-AGG)

SUBJECT: Draft Proposed Amendments to the CA Cap-and-Trade Program Regulation

DATE: August 2, 2013

On behalf of the Coalition on Agricultural Greenhouse Gases (C-AGG), I am submitting comments for consideration during the public comment period on the proposed draft changes to the California Cap-and-Trade Regulation (Regulation), which was formally adopted by the Air Resources Board (ARB) in 2011, and to which ARB is currently considering additional amendments for Board consideration in fall 2013.

C-AGG is a multi-stakeholder coalition of agricultural producers, scientists, offset methodology experts and developers, carbon investors, environmental ngo's, and project developers that fosters a fact-based discourse on the development and adoption of policies, programs, methodologies, protocols and tools for GHG emissions reductions and carbon sequestration from the agricultural sector. C-AGGs' primary objective is to incentivize voluntary GHG emissions reductions opportunities for agricultural producers that enhance productivity and income generation opportunities while benefiting society.

The proposed changes were developed based on discussions prior to and during C-AGG's most recent meeting in July, 2013, and reflect the input of multiple stakeholders and participants. C-AGG participants agree that aggregation is one of – if not the most important – factor in the development of agricultural offset projects that are cost-effective, quantifiable and enforceable, and will help facilitate the engagement of the agricultural sector in voluntary GHG mitigation efforts. Aggregation further helps ARB manage risk, in that it allows ARB to interact with an aggregator rather than having to interact directly with each individual farmer, who may or may not be farming on leased land. Aggregators can take on the liability of changing land management dynamics that are operational within the agricultural sector and can develop systems to track and manage variable or liquid ownership and leasing dynamics of multiple fields within a project.

C-AGG believes that clearly defining the role of the aggregator in the cap-and-trade regulations, along with the caveat that aggregation is only allowed where expressly permitted by the compliance offset protocol, will allow for aggregation to be included in compliance protocols with minimal changes to the regulations. The language below is current regulatory language in the ARB Mandatory Reporting Regulation (MRR), which is included by reference in the cap-and-trade regulations' accreditation

requirements for offset verifiers and verification bodies (Section 95978). Suggested C-AGG modifications are proposed in redline format, and are intended as a proposal to provide the necessary framework for the unique role aggregators can play to bring valuable agricultural offset projects into California's cap-and-trade market. C-AGG includes herein recommendations for what aggregator accreditation requirements might look like, while acknowledging this is only one potential approach to aggregation. C-AGG welcomes other proposals that accomplish the same outcome: the ability to aggregate projects to reduce nonperformance risk and manage cost. These aggregator accreditation requirements are provided to help ARB identify the type and background of entities that might serve as aggregators to further inform how the role of the aggregator is defined. While some of the language suggested is specific to the rice offset protocol rulemaking which is also currently underway, the proposed language is applicable for other land-based agricultural practices. We recognize that these edits may require additional changes to the cap-and-trade regulations for conformity, and C-AGG welcomes the opportunity to work with ARB to incorporate any additional necessary changes.

It should be noted that C-AGG has considered whether and how aggregation might work from the point of view of having the aggregator serve as the authorized project designee (APD) or the Offset Project Operator (OPO). While C-AGG does believe allowing the APD to serve as an aggregator could help projects with economies of scale, the recommendations below are drafted to propose that the aggregator may serve as an OPO, to resolve ownership-lessee issues that we believe are a critical consideration in agricultural offset protocols due to the highly liquid nature of land ownership-leasing-management relationships in the agricultural sector.

Finally, C-AGG recognizes that ARB's current staff proposal for revisions to the cap-and-trade regulation includes some minor revisions that we believe improve the potential for aggregation within the existing regulations. In particular, we think the revisions to Section 95977.1.(b)(3)(D) (now C) on offset site visit requirements are valuable revisions, which we encourage the Board to adopt.

We would be happy to respond to any questions or clarifications you might require based on this proposal.

## § 95802. Definitions

### ***Add a definition for:***

**“Aggregator” means an entity which intends to serve as an Offset Project Operator for an Offset Project, where the Compliance Offset Protocol permits aggregation, meets the requirements of section 95xxx, and meets the requirements of the respective Compliance Offset Protocol.**

### ***Expand on the definition for:***

**(179) “Offset Project Operator” means the entity(ies) with legal authority to implement the offset project. An “Aggregator,” as defined in Section 95802xx, may serve as an Offset Project Operator for Compliance Offset Protocols where aggregation is permissible.**

**§ 95xxx132. Accreditation Requirements for ~~Verification Bodies, Lead Verifiers, and Verifiers of Emissions Data Reports and Offset Project Data Reports~~Aggregators.**

1. The accreditation requirements specified in this subarticle shall apply to all ~~aggregators of offset projects~~~~verification bodies, lead verifiers, and verifiers that wish to provide verification services~~ under this article ~~and under the cap and trade regulation.~~
2. The Executive Officer may issue accreditation to ~~verification bodies, lead verifiers, and verifiers that meet the requirements~~~~aggregators~~ specified in this section.
  1. ~~Verification Body Accreditation~~~~Aggregator Accreditation~~ Application. To apply for accreditation as an ~~aggregator~~~~verification body~~, the applicant shall submit the following information to the Executive Officer:
    1. A list of all ~~verification~~ staff and a description of their duties and qualifications; ~~including ARB accredited verifiers on staff~~. The applicant shall demonstrate staff qualifications by listing each individual's education, experience, professional licenses, and other pertinent information.
      1. ~~A verification body shall have and retain at least two verifiers that have been accredited as lead verifiers, as specified in section 95132(b)(2);~~
      2. ~~A verification body~~~~An aggregator~~ shall have and retain at least ~~five~~~~three~~ total full-time staff.
    2. The applicant shall provide a list of any judicial proceedings, enforcement actions, or administrative actions filed against the body within the previous 5 years, with an explanation as to the nature of the proceedings.
    3. The applicant shall provide documentation that the proposed ~~verification body~~~~aggregator~~ maintains a minimum of ~~four~~~~two~~ million U.S. dollars of professional liability insurance and must maintain this insurance for three years after ~~the last crediting period of the offset project developed by the aggregator~~~~completing verification services~~.
    4. ~~The applicant shall provide a demonstration that the body has policies and mechanisms in place to prevent conflicts of interest and to identify and resolve potential conflict of interest situations if they arise. The applicant shall provide the following information:~~
      1. ~~Identification of services provided by the verification body, the industries that the body serves, and the locations where those services are provided;~~
      2. ~~A detailed organizational chart that includes the verification body, its management structure, and any related entities;~~
      3. ~~The verification body internal conflict of interest policy that identifies activities and limits to monetary or non-monetary gifts that apply to all employees.~~The applicant shall provide a demonstration that the body has procedures or policies to support staff technical training as it relates to ~~verification~~~~aggregation~~. This training shall include participating in ARB ~~verifier~~~~aggregator~~ training on an ongoing basis.

5. The ~~verification body aggregator~~ shall notify ARB within 30 days of when it no longer meets the requirements for accreditation as a verification body in section 95132(b)(1). The ~~verification body aggregator~~ may request that the Executive Officer provide an additional time to hire additional staff to meet the requirements of this section.
6. ~~If the applicant is a California air pollution control district or air quality management district, the requirements of section 95132(b)(1)(A)(2) and 95132(b)(1)(B)-(D) do not apply, except that the applicant shall provide a demonstration that the district has policies and mechanisms in place to prevent conflicts of interest and resolve potential conflict of interest situations if they arise.~~
2. ~~Lead Verifier Accreditation Application.~~ To apply for accreditation as a lead verifier, the applicant shall submit documentation to the Executive Officer that provides the evidence specified in section 95132(b)(2)(A), and section 95132(b)(2)(B), or (C):
  1. ~~Evidence that the applicant meets the criteria in 95132(b)(3); and,~~
  2. ~~Evidence that the applicant has been an ARB accredited verifier for two continuous years and has worked as a verifier in at least three completed verifications under the supervision of an ARB accredited lead verifier, with evidence of favorable assessment by ARB for services performed; or,~~
  3. ~~Evidence that at the time of the verification training examination, the applicant has worked as a project manager or lead person for not less than four years, of which two may be graduate level work:~~
    1. ~~In the development of GHG or other air emissions inventories; or,~~
    2. ~~As a lead environmental data or financial auditor in the private sector.~~
3. Verifier Aggregator Accreditation Application. To apply for accreditation as an aggregator verifier, the applicant shall submit the following documentation to the Executive Officer:
  - A. Evidence demonstrating the minimum education background required to act as an aggregator verifier for ARB. Minimum education background means that the applicant has either:
    1. A bachelors level college degree or equivalent in science, technology, business, statistics, mathematics, environmental policy, agriculture or economics, ~~or financial auditing~~; or
    2. Evidence demonstrating the completion of significant and relevant work experience or other personal development activities that have provided the applicant with the communication, technical and analytical skills necessary to conduct offset project aggregation verification.
  - B. Evidence demonstrating sufficient workplace experience to act as an aggregator verifier, including evidence that the applicant has a minimum of two years of fulltime work experience in a professional role involved in emissions data management, offset project development, data management systems, the application of emissions and/or biogeochemical process models, emissions technology, emissions inventories, environmental auditing, or other

technical skills necessary to conduct offset project aggregation verification.

4. ~~The applicant must take an ARB approved general verification training and receive a passing score of greater than an unweighted 70% on an exit examination. If the applicant does not pass the exam after the training, they may retake the exam a second time. Only one retake of the examination is allowed before the applicant is required to retake the ARB approved general verification training course. Training under the previous version of the regulation does not qualify an applicant to retake an exam under this version without first taking the training for this revised regulation.~~
5. ~~Sector Specific and Offset Project Specific Verifiers.~~
6. ~~*Sector Specific Verifier.* The applicant seeking to be accredited as a sector specific verifier as specified in section 95131(a)(2) must, in addition to meeting the requirements for accredited lead verifier or verifier qualification, have at least two years of professional experience related to the sector in which they are seeking accreditation, take ARB sector specific verification training and receive a passing score of greater than an unweighted 70% on an exit examination. If the applicant does not pass the exam after the training, they may retake the exam a second time. Only one retake of the examination is allowed before the applicant is required to retake the ARB approved sector specific verification training.~~
  - B. ~~*Offset Project Specific Verifier.* The applicant seeking to be accredited as an offset project specific verifier as specified in section 95977.1(b) of the cap and trade regulation must, in addition to meeting the requirements for accredited lead verifier or verifier qualification, meet one of the following requirements:~~
    1. ~~Have at least two years of professional experience related to developing emission inventories, conducting technical analyses, or environmental audits of the offset project type, and take general ARB offset verification training and ARB offset project specific verification training for an offset project type, and receive a passing score of greater than an unweighted 70% on an exit examination. If the applicant does not pass the exam after the training, they may retake the exam a second time. Only one retake of the examination is allowed before the applicant is required to retake the applicable ARB approved offset verification training; or,~~
    2. ~~Be a verifier in good standing for the Climate Action Reserve prior to October 28, 2011, taken Climate Action Reserve project specific verifier training, have performed at least two project verifications for a project type by October 28, 2011, and have taken general ARB offset verification training, and receive a passing score of greater than an unweighted 70% on an exit examination. If the applicant does not pass the exam after the training, they may retake the exam a second~~

~~time. Only one retake of the examination is allowed before the applicant is required to retake the ARB approved general ARB offset verification training and offset project specific verification training.~~

6. Nothing in this section shall be construed as preventing the Executive Officer from requesting additional information or documentation from an applicant after receipt of the application for accreditation as an aggregator verification body, lead verifier, or verifier, or from seeking additional information from other persons or entities regarding the applicant's fitness for qualification.

(c) *ARB Accreditation.*

1. Within 90 days of receiving an application for accreditation as an aggregator verification body, lead verifier, verifier, sector specific verifier, or offset project specific verifier, the Executive Officer shall inform the applicant in writing either that the application is complete or that additional specific information is required to make the application complete.
2. Upon a finding by the Executive Officer that an application for accreditation as an aggregator verification body, verifier, lead verifier, sector specific verifier, or offset project specific verifier is complete, meets all applicable regulatory requirements, and passes a performance review by ARB which may include a review of applicable past voluntary or compliance offset projects, conflict of interest submittals, and additional information or documentation regarding the applicant's fitness for qualification as defined in section 95102(a), the prescreening requirement is met ~~and the applicant will be eligible to attend the verification training required by this section.~~
3. Within 45 days following completion of the application process ~~and all applicable training and examination requirements~~, the Executive Officer shall act to issue an Executive Order to grant or withhold accreditation for the verification body, lead verifier, sector specific verifier, offset project specific verifier or verifier aggregator.
4. The Executive Order for accreditation is valid for a period of three years, whereupon the applicant may re-apply for accreditation as an aggregator verifier, lead verifier, sector specific verifier, offset project specific verifier, or verification body if the applicant has not been subject to ARB enforcement action under this article. ~~All ARB approved general, sector specific, or offset project specific verification training and examination requirements applicable at the time of reapplication must be met for accreditation to be renewed by the Executive Officer.~~ In addition, the performance review requirement set forth in section 95~~xxx132~~(c)(2) must be met for accreditation to be renewed by the Executive Officer.
5. All verification body aggregator requirements in section 95~~xxx132~~(b)(1) must be met for the Executive Officer to renew the verification aggregator body accreditation.

6. The Executive Officer and the applicant may mutually agree to longer time periods than those specified in subsections 95xxx132(c)(1) or 95xxx132(c)(3), and the applicant may submit additional supporting documentation before a decision has been made by the Executive Officer.
  7. Within 15 working days of being notified of any corrective action in another voluntary or mandatory GHG program, an ARB accredited ~~verification body, lead verifier, sector specific verifier, offset project specific verifier, or verifier~~ aggregator shall provide written notice to the Executive Officer of the corrective action. That notification shall include reasons for the corrective action and the type of corrective action. The ~~verification body or verifier~~ aggregator must provide additional information to the Executive Officer upon request.
  8. ~~Verifiers shall take ARB approved training to continue to provide verification services after January 1, 2012. The verifier must receive a passing score of greater than an unweighted 70% on the exit examination.~~
- (d) *Modification, Suspension, or Revocation of an Executive Order Approving an ~~Aggregator, Verification Body, Lead Verifier, or Verifier~~*. The Executive Officer may review and, for good cause, including any violation of subarticle 4 of this article or any similar action in an analogous GHG system, modify, suspend, or revoke an Executive Order providing accreditation to an ~~aggregator, verification body, lead verifier, or verifier~~. The Executive Officer shall not revoke an Executive Order without affording the ~~verification body, lead verifier, or verifier~~ aggregator the opportunity for a hearing in accordance with the procedures specified in title 17, California Code of Regulations, section 60055.1 et seq.
1. ~~During suspension or revocation proceedings, the verification body, lead verifier, or verifier may not continue to provide verification services.~~
  2. Within five working days of suspension or revocation of accreditation, an ~~verification body aggregator~~ must notify all ~~parties reporting entities, offset project operators, or authorized project designees~~ for whom it is providing ~~verification aggregation~~ services, or has provided ~~verification aggregation~~ services within the past 6 months of its suspension or revocation of accreditation.
  3. ~~A reporting entity, offset project operator, or authorized project designee who has been notified by a verification body of a suspended or revoked accreditation must contract with a new verification body for verification services.~~
- (e) *Subcontracting*. The following requirements shall apply to any ~~verification body aggregator~~ that elects to subcontract a portion of ~~aggregation verification~~ services.
1. ~~All subcontractors must be accredited by ARB to perform the verification services for which the subcontractor has been engaged by the verification body.~~
  2. The ~~verification body aggregator~~ must assume full responsibility for ~~verification aggregation~~ services performed by subcontractors ~~verifiers~~.

3. An aggregator verification body shall not use subcontractors to meet the minimum staff total ~~or lead verifier requirements~~ as specified in section 95xxx132(b)(1)(A)1. ~~and section 95xxx132(b)(1)(A)2.~~

~~A verifier acting as a subcontractor to another verification body shall not further subcontract or outsource verification services for a reporting entity.~~

4. An aggregator verification body that engages a subcontractor shall be responsible for demonstrating an acceptable level of conflict of interest, as provided in section 95xxx133, between its subcontractor and the reporting entity for which it will provide verification aggregation services.

~~A verification body may not use a subcontractor as the independent review~~  
~~\_\_\_\_\_er.~~