

May 10, 2024

California Air Resources Board
1001 I Street
Sacramento, CA 95812 USA

Via Electronic Submission

RE: Comments on California Air Resources Board's April 23, 2024 Cap and Trade Workshop including proposed regulatory changes to the Compliance Offset Program

Thank you for the opportunity to provide comments on the California Air Resources Board (CARB) April 23, 2024, Cap and Trade Workshop including proposed regulatory changes to the Compliance Offset Program.

New Forests is a sustainable investment firm that manages over USD 7.2 billion in forestry and agricultural assets globally, including approximately 450,000 acres of forestland in California. New Forests was among the earliest investors in California's compliance offset program, partnering with the Yurok Tribe to develop the 8,000-acre Yurok CKGG IFM project in Northern California, which was the first project to be issued credits under a compliance offset protocol. Since then, New Forests has enrolled approximately 750,000 acres of forest carbon offset projects and generated over 23 million ARB offset credits.

New Forests appreciates and commends CARB for sharing comments and soliciting feedback on proposed regulatory changes to the Offset Program. With over a decade of implementation experience, valuable lessons have been learned that provide continuous opportunities for improvement even within a program that is, overall, functioning well. We also thank and appreciate staff for their foresight in considering the implications of project monitoring periods and transitions of land ownership. Given the long-term and enduring commitments required for forest landowners, it is imperative to accommodate necessary changes and flexibility within a structured framework characterized by rigor and transparency.

To that end, we also applaud and support efforts to clarify and streamline requirements for the program, reduce conflicts of interest, and improve the capabilities and independence of verifiers. We caution, however, in adding undue administrative burdens and costs in the program, which will unevenly impact and primarily disadvantage small landowners.

In the comments below, we respond to and provide recommendations for a selection of specific concepts proposed by staff during the workshop. However, we also encourage staff to consider the recommendations of the [Offset Protocol Task Force \(OPTF\)](#), which was a year-long, multi-stakeholder process for the purpose of increasing offset projects with direct environmental benefits in the state while prioritizing disadvantaged communities, Native American or tribal lands, and rural and agricultural regions.

Forest Protocol Research Contract:

- We support CARB in undertaking efforts to update the natural disturbance risk-rating approach to further ensure the permanence of issued offset credits. However, we urge CARB to take a comprehensive approach to evaluating risks to forest projects in all regions of the U.S., and to not just focus on wildfire risk in the West. We hope that CARB considers tailoring risk assessments to the specific risks prevalent in *each region*, while also ensuring that future projections of disturbance are based on the best available science and not biased by the experience of the last few years.

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- We believe it is critical to maintain a mechanism to decrease the buffer pool when projects are taking meaningful action to mitigate risk, as this provides an important incentive for enhancing forest health and resilience. Additionally, there may be an opportunity to strengthen this incentive by providing greater reductions to projects actively engaged in risk reduction activities.
- We encourage transparency in the procedures and processes of the Forest Protocol Research Contract, including sharing the research results and seeking stakeholder feedback.

General Regulatory Requirements on Timing & Process [95977.1(b)(3)(R)(6)]

- New Forests appreciates and supports adding clarification to the process of petitioning for verifiability when faced with the possibility of an adverse Offset Verification Statement (OVS). However, it is essential to retain this critical mechanism. We encourage CARB to avoid imposing an arbitrary timeline on this process, as it could unfairly penalize projects making genuine and good faith efforts to complete verification. Current verification timelines often prove insufficient for complex projects, including forest projects undergoing their first full verifications, as well as those projects seeking to apply Alternate Monitoring and Measurement Methods. Thus, allowing flexibility is necessary, especially since there is no impact to the quality or integrity of the credits by giving the verification process more time.

Forest Project Reversals [95983]:

- Regarding the proposal to address compensation for a reversal during the post-crediting monitoring phase, we encourage CARB to maintain consistency with the current regulatory definition of a reversal as something that impacts a “GHG emission reduction or GHG removal enhancement for which an ARB offset credit or registry offset credit has been issued.” Fluctuations in carbon stocks that do not impact previously issued credits should not be considered a reversal requiring compensation, whether in a crediting period or in a post-crediting monitoring period.
- We appreciate the proposal to expand and clarify the reversal definitions and provisions of Section 95983. At the same time, we encourage CARB to consider two important recommendations from the Offset Protocol Task Force related to reversals. Importantly, the below recommendations do not propose changing the fundamental principles that 1) all reversals must be verified, and 2) all reversals must be compensated to maintain the integrity of the offset program. The below recommendations do, however, propose adding flexibility and removing unnecessarily restrictive requirements that add complexity and expense without improving the integrity of the program.
 - Clarify the standard of negligence related to intentional reversals to be consistent with typical California legal standard of willful misconduct or gross negligence and change the definition of Intentional Reversal in Section 95802 accordingly (Forestry Subgroup Recommendation #4).
 - Provide additional flexibility for managing certain types of reversals, such as computational, technical and planned reversals, while maintaining offset permanence and core requirement that all reversals be verified and compensated (Forestry Subgroup Recommendation #5).

Forest Project Termination [95983(d)]:

- New Forests supports CARB’s proposal to eliminate automatic termination if carbon stocks fall below the baseline, and to provide the option for project proponents to continue forest projects if they choose to do so. This is especially relevant for improved forest management projects that are below common practice and may have onsite carbon stocks very close to the baseline at the start of the project.

Expand Verification Requirements for Forest Projects [95977 and 95978]:

- New Forests seeks additional information on the proposal to bolster verifier independence from landowner influence. While we endorse and support verifier independence and oversight, we are currently unaware of any issues or gaps with the current requirements on this topic.
- The more pressing issue, in our view, lies in the scarcity of CARB-approved, accredited verifiers, as well as in the increasing cost of verification. We encourage CARB to promote verifier independence and oversight by providing regular trainings and accreditations, providing clear and consistent guidance, and ensuring the availability of a broad and experience pool of verifiers to conduct independent third-party verifications, which is a critical component of the program.

Offset Project Land Ownership Transfer [95975(p)]:

- New Forests supports a clear and transparent process during forest offset project land transfers. However, it is essential to balance transparency with confidentiality concerns, especially in the early stages of a potential land transfer.
- We support allowing a new landowner to relist after a project has terminated. In addition, we believe that Section 95975(p) should also be updated to allow landowners to relist a project even if the project is not terminated, as long as the project has not been registered and been issued offset credits. This was a recommendation of the Offset Protocol Task Force (Forestry Subgroup Recommendation #2).

Miscellaneous Offset Credit Provisions:

- Regarding the proposal to require certain out-of-state forest projects to verify the DEBs determination at subsequent full verifications, we would encourage CARB to clarify that this requirement would not apply to projects that have all or a portion of their project footprint in the state of California (i.e. in-state projects) and would only apply to projects that are wholly located outside of the state. Additionally, if the change results in the possibility that a DEBS designation could be revoked for an out-of-state project, it would make sense to allow an out-of-state project to apply to have a DEBs designation added in subsequent verification, should conditions change or better information become available.
- The proposal to modify the start of the invalidation period to begin at the date of issuance rather than the end of the reporting period would have the effect of substantially lengthening the invalidation period for offset credits by 1-2 years or more, due to the long lag time between the end of a reporting period and the date of issuance. This is due to the lengthy process of verification, registry review and ARB review that precedes credit issuance. Given the extremely low rate of invalidations to date, we would encourage CARB to, instead of lengthening the invalidation period for offset credits, consider shortening the invalidation period. One potential solution could be to align the start of the invalidation period with the date of issuance, as proposed, but simultaneously reduce the default invalidation period from 8 years to 3 years and remove the requirement to re-verify within a certain time period in order to achieve the invalidation period reduction. This was a recommendation of the Offset Protocol Task Force (Overarching/Programmatic Considerations Subgroup Recommendation #1).
- We are supportive of allowing baseline adjustments when an error is discovered but encourage CARB to apply any baseline adjustments on a forward-looking basis.

Other Recommendations from the Offset Protocol Task Force (OPTF)

- We would like to bring CARB's attention to a few other important recommendations from the OPTF that would require modifications in the regulation. Consistent with the charge of the OPTF as set out in AB 398, these proposed changes aim to improve efficiency, reduce costs, decrease barriers to participation, and increase offset projects with direct environmental benefits to the state of California, while prioritizing disadvantaged communities, Native American or tribal lands, and rural regions.
 - Definition of Forest Owner [Section 95802]
 - Scope definition to owners of affirmative interests with title and/or control of property resources relevant to offset project responsibility and liability (OPTF Forestry Subgroup Recommendation #3).
 - Verification: Projects with few or no new offset accruals [Section 95977(c)]
 - Reduce verification frequency and intensity for projects with small offset issuances and projects no longer seeking new offset issuances (OPTF Forestry Subgroup Recommendation #8).
 - Project Boundary Changes
 - Allow project area boundaries to be changed under certain circumstances to add or remove area after project registration (OPTF Forestry Subgroup Recommendation #9).
 - Allow offset usage limits to be traded among compliance entities
 - Entities that do not use their full offset usage limit should be able to trade any unused portion to other entities as long as the total usage limit does not exceed statutory limits (OPTF Overarching/Programmatic Considerations Subgroup Recommendation #2).
 - Improve efficiency and transparency of the CARB review process
 - Establish an online Status Tracker, a formal Issues Log to track review findings and requests, hold Opening and Closing meetings and implement risk-based reviews of offset

- projects (OPTF Overarching/Programmatic Considerations Subgroup Recommendation #16).
- Make CARB guidance regularly and publicly available
 - Regularly publish guidance, directives or decisions by CARB that are currently communicated on an ad hoc basis to ensure broad and timely access to information and a level playing field (OPTF Overarching/Programmatic Considerations Subgroup Recommendation #17).

We would like to thank ARB staff and board members for considering these comments and for their continued efforts to improve the Compliance Offset Program. We look forward to working with ARB on these important regulatory changes going forward.

Sincerely, on behalf of New Forests, Inc.,

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