

READY, OFFSET, GO: A LOOK AT THE FINAL CAP-AND-TRADE REGULATION'S OFFSET PROGRAM

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**Climate
Change**

The time has finally come... California's **cap-and-trade regulation** finally went into effect in January of 2012 (not without its litigation drama along the way – see [here](#), [here](#), [here](#), [here](#), and [here](#) for the full saga). The crowning jewel of **California's AB 32**, the regulation establishes an overall cap on greenhouse gas (GHG) emissions for all covered sources. There are two “compliance instruments” contemplated as a part of the cap-and-trade regulation. In other words, there are two different items that a covered facility may obtain to allow them to emit GHGs: (i) allowances, which are a particular facility's tradable portion of the total GHGs permitted to be emitted under the overall cap, and (ii) **offsets**, which are projects that will reduce emissions outside of the cap. This article will focus on the regulation's offset program which is run by the **California Air Resources Board (ARB)**.



Under the regulation, offsets may be used by a facility to meet up to 8% of its compliance obligation under the cap-and-trade program. Not just any old GHG-reducing project warrants the issuance of an official offset, however... there are many requirements. The reductions created by the project must be real, additional (meaning, beyond regulation or would otherwise occur), quantifiable, permanent, verifiable and enforceable.

Programs are eligible for offset issuance if they are the result of an ARB adopted “compliance offset protocol.” These protocols are scientific and technical requirements for a particular type of project (for example, a dairy digester). Currently, there are adopted protocols for projects in only four project areas: **forestry**, **urban forestry**, **livestock projects** and **destruction of ozone-depleting substances**. However, ARB plans to develop more protocols in the future as well as linking California's regulation to the **Western Climate Initiative's** program such that any protocols they have developed may also be used.

Prior to issuance of an offset credit, the project must be listed on an ARB-approved offset project registry (OPR). In order to become an OPR, the regulation requires prospective registries to undergo an application and rigorous vetting process. Once approved as an OPR, a registry may list projects and also assist in the reporting and verification steps (discussed in the next paragraph).

AB 32 requires that all reductions used to comply undergo regulatory verification; therefore, one of the primary requirements of the offset program is for third-party verification. ARB will undertake the task of training and accrediting third-party verifiers. In order to have an offset issued by ARB, the project must undergo this verification. In addition, a project may undergo a second round of third-party verification in order to shorten to three years the statute of limitations within which an offset may be invalidated (without this review by a second verifier, the statute of limitations is eight years).

Although ARB is essentially farming out much of the work to verify and monitor the compliance of the offset projects with the regulation, ARB will have extensive oversight through randomly auditing projects and verifiers and requiring OPRs to annually report certain information.

This article is merely an overview of the main requirements a project must undergo under the regulation in order to be issued an offset credit. As with anything, the devil is in the details... and there are many. As far as next steps, ARB says that they intend to accredit offset verifiers, approve OPRs and develop and institute an ARB tracking system. In addition, they intend to consider and develop new offset protocols. Stay tuned!