Chairman Mary Nichols and Members of the Board
California Air Resources Board
1001 I Street
Sacramento, California

August 11th 2011

RE: Comments on Proposed 15-day Modifications to the Proposed Regulations to Implement the California Cap-and-Trade Program

Dear Chairman Nichols and Members of the Board:

Thank you for the opportunity to comment on the proposed 15-day changes to the draft regulations previously released on California's cap-and-trade program. Camco commends the way ARB has gone about the process of evaluating, designing and implementing a cap-and-trade program to help achieve the emissions reductions required under Assembly Bill 32 (A.B.32). The transparent development of cap-and-trade regulations, taking input from a wide range of stakeholders, will do much to ensure the program's success at incentivizing investment in emissions reduction technologies and moving towards cleaner sources of energy.

Camco is a global developer of greenhouse gas emissions reduction and clean energy projects. In the U.S. we have developed a significant portfolio of projects registered with the Climate Action Reserve which generate emissions reductions from livestock projects and we are also investing in projects to convert methane from livestock waste to energy in California and other states in the western U.S. We applaud ARB in selecting offsets generated by the CAR Livestock Protocol as eligible to be used as early action offsets under the cap-and-trade program and for providing continuity to project developers by incorporating many of the aspects of the current CAR Livestock Protocols.

Camco anticipates utilizing the carbon market to provide revenues for its continued investment in anaerobic digesters on farms. However, we are concerned that a number of regulations set-out in the 15-day changes may make it difficult, costly and increasingly risky to generate offsets from Livestock projects.

We provide comments below on the importance of ARB to recognize that small-scale projects, particularly livestock projects, while providing a long-list of benefits in addition to greenhouse gas reductions, have limited capacity to absorb increased regulatory cost.

These costs tend to be inelastic and, while appropriate and necessary for large-scale projects generating many tens of thousands of tonnes of emissions reductions a year, may be inappropriate for smaller projects generating thousands or hundreds of tonnes of reductions per year. For small-scale projects, we believe there are easier and better ways

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to ensure environmental integrity. We also provide more detailed comments on specific aspects of the regulations.

Camco is a member of a number of trade associations who are submitting comments to you on this consultation. Comments, which have not been addressed herein, particularly relating to more wide-ranging issues, are being addressed in our trade association responses.

Recognizing Small-Scale Projects

The use of offsets will allow California to meet its A.B.32 emissions reduction goals at lower cost. They will provide flexibility for covered entities, allowing them to plan for investment in emissions reduction technologies which may not be currently commercially viable. Offsets also enable the benefits of California's cap-and-trade program to reach non-covered sectors, incentivizing emissions reductions outside of the program and promoting investment, local development, employment and technological development.

Of particular importance to reap the wider benefits of including offsets is the incentivization of small-scale projects; projects where there is large-scope for emissions reduction activities but, which individually expect to generate emission reductions of less than 25,000 tCO2e per annum. California has many opportunities for smaller-scale projects to contribute towards the reductions required by the cap-and-trade program in sectors such as manure and organic waste management, small-scale forestry and agriculture.

The existing CAR protocols and the draft Compliance Offset Protocols take a performance-based approach for determining the eligibility of projects to generate offsets. We agree with this. We believe that it provides project developers, such as Camco, with greater certainty that projects will be able to register offsets and reduce overall transaction costs. This will be particularly beneficial to smaller-scale projects.

Despite many aspects of the overall approach being helpful, particularly concerning transaction costs and uncertainties (for example, fixed timelines, standard baselines and performance-based approaches), much of the detailed regulations proposed by ARB will impose and increase costs and uncertainties for developers and project owners. This will have negative impacts on smaller-scale projects, and projects that will provide benefits to California in other ways (e.g., rural development, other environmental benefits, job creation, etc.). This is surely not, we believe, what ARB intends from a broader policy perspective.

We believe that ARB must uphold the environmental integrity of the cap-and-trade program. However, the way to address integrity for small-scale projects is to make the protocols conservative, by default, to minimize the chances of over-estimating emission reductions. Further, we believe that regulations should be scalable to reflect the contribution and impact smaller-scale projects can have on the overall system.

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For example, the livestock protocol already has built in conservative features safeguarding environmental integrity. The protocol imposes an automatic 20% discount on methane emitted in the baseline to account for model uncertainties. Further, the protocol requires frequent calibration checks, in excess of manufacturers' requirements. It mandates other quality assurance and control procedures to ensure robust monitoring outputs.

ARB should recognize that all offset projects do not have the potential to pose the same threat to the level of environmental integrity intended by the law and regulation, and that the regulations should take account of the scale of the offset action. While the principle of environmental integrity must be maintained in all eligible offset projects, the various costs of ensuring that integrity, from administrative, management to MRV costs, should, reflect the scale of the project, particularly for small-scale projects.

This principle is clearly set out and practiced within the Kyoto Protocol framework, particularly under the Clean Development Mechanism, where the protocol (methodology), validation and verification requirements are clearly scaled down from those that apply to large-scale projects to those that apply to small-scale and very small-scale projects.

This scalability is designed to reflect, first, the fact that a small-scale project can, on the one hand, not afford the costs that a large-scale project can. On the other, it also reflects, that, should the small-scale activity not work to the full standard, any breach of environmental integrity will be much smaller, in absolute terms, than a large-scale project.

Further, it explicitly recognizes this trade-off and judges that, in the whole, encouraging small-scale activities has far more potential benefits than not, and, therefore, it is better to ease requirements on small-scale projects to encourage more action in those sectors.

For example, comparing a large-scale project producing 100,000 offsets per year with a small-scale livestock project producing 5,000 offsets per year illustrates these points. Both projects will incur similar transaction costs related to verification, contracting and monitoring. Indeed, the costs for the small-scale project, if it is required to install and maintain additional monitoring equipment to comply with ARB's proposed protocols, may be higher, in both absolute and relative terms, compared to the large-scale project. Yet, the impact of over-counting the emission reductions on the whole program for the larger-scale project is far greater than the impact of over-counting on the smaller-scale project.

Ten percent over-counting on a 100,000 offset project would yield 10,000 offsets per year, while 10% on the smaller-scale project will yield 500 offsets. It is clear that the risk to environmental integrity of "not getting it right" with a large-scale project is much greater than with a small-scale project. It would take over-counting by 10% from 20 of these 5000 offset per year projects, in this example, to equal the amount of over-counting of reductions by 10% for one 100,000 offset per year project.

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The same logic applies to the mechanism ARB is using to allow for the invalidation of offsets. Given their size, small-scale projects will have a very low threshold for the determination of errors which result in a 5% or greater over-statement of emissions reductions. For a project generating 5,000 offsets a year, this would be 250 offsets.

An over-statement of, say, 300 tonnes, would lead to the entire invalidation of all 5,000 offsets and a liability on the project owner to replace all the offsets at some future date. For dairy farmer, it will be prohibitively expensive to assume this type of risk, given the revenue stream likely to accrue from the sale of offsets after all other transaction costs have been factored in.

It is important to allow smaller-scale projects flexibility to demonstrate their emissions reductions, if we are to encourage the development of these types of small-scale activities. The CDM (and other standards) allow greater flexibility for smaller-scale projects. There are simplified project design and MRV procedures for these size projects which significantly reduce the costs of registration, monitoring, reporting and verification. We strongly suggest that the same principles for small-scale offset projects be applied in California, following international best practice.

In California there is significant potential for emissions reduction projects at livestock operations. These projects have a host of other benefits, from stimulating rural economies to improving water quality and providing other environmental benefits. These projects demonstrate that a market-based approach to lower emissions can provide substantial benefits to rural areas.

Comments on Specific Articles

We comment, below, on specific articles and provide suggestions as to how these could be modified to reduce transaction costs and uncertainty, and provide less of a disincentive for small-scale project developers to build emissions reduction projects.

Early Action Offsets: 95990 (f) 4. Offset material misstatement: We suggest ARB needs to place a minimum threshold on material misstatement to reduce the burden on small-scale projects and to bring reporting of emissions reductions in line with other articles and regulations.

As currently written, a project which generates 4,000 tonnes of reductions could be required to undergo a full re-verification if there was uncertainty of 3% (120 tonnes of reductions). There is a strong case for scaling the threshold relative to a project's size, recognizing the costs for small-scale projects of re-verification, the conservative nature of the protocol and the small number of emissions reductions at stake.

Indeed, ARB does not require capped facilities emitting less than 10,000 tonnes of CO_2e per year to report under its program at all. We suggest that an appropriate minimum threshold for material misstatement could be 10,000 tonnes.

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Setting an absolute minimum threshold for small-scale projects would reduce their burden and would be consistent with ARB's approach elsewhere.\

f)3) The process for re-verifying projects, as currently drafted, will have a disproportionate impact on the ability of small-scale projects due to the low threshold for a full re-verification and the high costs associated with a re-verification relative to the total number of credits produced by a project.

ARB could impose a size threshold here, requiring projects generating less than the threshold for covered sources (25,000 tCO_2e) to be desk=reviewed by the same verifier who verified the project to CAR (and who would need to be accredited by ARB). Where a material misstatement has occurred, the project would need to undergo a full re-verification.

k) We are not sure why a project developer is not allowed to use ARB protocols to register new projects in 2012. To us, using ARB protocols from 2012 would greatly simplify and harmonize registration. It would provide an opportunity to "road-test" these protocols and the ARB issuance process. Again, requiring projects to effectively undergo two verifications (one for CAR and another for ARB) has a disproportionate impact on smaller-scale projects and increases uncertainty for small-scale developers. For example, the price differential, showing the uncertainty over the ARB re-verification process, at the moment between CAR livestock CRTs and ARB offsets is around $3, or 25 – 30%.

k)3) This allows projects to re-start their crediting period when they transition to a Compliance Offset Protocol. However, when an offset is no longer an early action offset, we are not sure that 95973 a)1)b) still applies. Could ARB clarify that early action projects which have start dates prior to December 2006 will be able to transition to the Compliance Offset Protocol?

Invalidation of Offsets: 95985 (b) 2. Overstatement of emissions reductions. If emissions reductions are overstated by 5% or more, then ARB can invalidate all offsets generated by a project during the verification period. For smaller-scale projects, with many "moving parts" (e.g., cattle, generators, boilers, flares), it will be very unlikely that the all of the credits from the verification period will be issued in error.

Rather, it will be more likely that there could be a faulty meter or a calculation error or a missing piece of data that causes a downward revision of the reductions. In this case, there needs to be a provision for the number of offsets issued to be adjusted after the error is determined.

We suggest that the project owner have the option of carrying out a re-verification and that a discount be applied retroactively to each offset issued in the year where the misstatement has occurred. This should be relatively straightforward. as each offset will have a serial number linking it to a vintage year and project.

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As with the quantification of intentional reversals from forestry projects (95983(c) (3)), project owners should have one year to complete another verification and 90 days to replace the number of credits which were found to have been issued in error. If this can be applied to forestry projects, we believe similar latitude can be, and should be, applied to livestock offset projects.

95980.1 – Process for Issuance of Registry Offset Credits

This article does not provide for a "registration" step prior to offsets being issued. It appears as if a project goes from being listed to issuing credits. There are a number of reasons to make a clear distinction between registration and issuance.

For example, project developers may want a project to be registered, but, may want to delay issuing, or to seek partial issuance at any point in time, due to commercial and/or cost reasons or because the buyer of the offsets may want the offsets delivered straight into their account (so they maintain full visibility).

From a sales point of view, selling and marketing offsets from a "registered" project is better than from a "listed" project. Allowing the project developer to dictate the issuance timeline provides greater flexibility.

We suggest that ARB adopts a process similar to the Climate Action Reserve, where the project first becomes "registered" after the acceptance of all documentation related to the verification, and that the project developer then has 60 days to provide for issuance of the credits. In our opinion, 30 days is too short a timeframe to notify, process payment and issue (most companies pay invoices net 30 days), especially where the sums involved are large and may require corporate approvals.

There are also no timelines set in this article or under the issuance of ARB offsets for the review of offset verification statements. If ARB requires the project developer to operate within tight time schedules, then it needs to provide similar timescales for itself and for standards bodies. This would provide greater certainty for owners and buyers on delivery schedules for credits and would better standardize the overall verification process, thereby reducing costs and increasing transparency.

95981(c)(1) – Issuance of ARB Offset Credits

Asks the project developer to state that reductions "will be measured ". This is hard to attest to, as developers may not have the rights to a project for its entire crediting period. We believe this might be an error in the text, as it is inconsistent with the spirit of the rest of the text. For a particular verification period the developer can only attest that the reductions "have been measured".

95987(d) – Offset Project Registry Requirements

Similar to the comment on 95980.1, this provides no timeline for registries giving guidance. Guidance should also be made public to improve transparency. The Climate Action Reserve now makes such guidance public and guidance is made public in other

programs such as the CDM.. Public guidance also helps developers to anticipate what changes will be incorporated in future protocol versions and prepare for them. It reduces duplication of effort where multiple project developers may ask for similar guidance.

Confusion between Regulations and Protocols

95976 (a) Requires meters to be maintained and calibrated at a frequency required by the manufacturer. However, the Livestock Protocol states that meters may be calibrated more frequently than manufacturers' recommendations and requires more frequent inspections. This is confusing. Which document should a developer follow? We believe that protocol-specific requirements should be left in the protocols, and not put in regulations. ARB staff should review the regulations to make sure that there are no contradictions between what the regulations prescribe and what the protocols prescribe.

Increased Verification Requirements

We are concerned by the prescriptive nature of the actions a verifier is required to undertake, as set out in the text. A verifier will have to be accredited by ARB and will have to follow the requirements of a protocol. Adding additional requirements will raise transaction costs in four ways.

First, it will require verifiers to do more, work they are already doing, thus leading to unneeded duplication. Second, it increases the verification timeline for the project. Third, it increases the risk that there is overlap and confusion between the regulations, the Protocols and ARB's accreditation process. Finally, it may raise the cost of liability insurance.

Currently, verification requirements are the same regardless of the size of project. Incorporating requirements into protocols would allow ARB to provide for more flexibility depending on the size of each project

95975 explicitly requires verifiers to do a number of things and imposes a number of additional steps on them. Imposing additional requirements on verifiers will increase cost and verification times.

Currently, under CAR. it takes some 3 months for projects to complete the verification process. Adding additional steps will increase the time period for verification. It has the potential of making the process longer than 9 months, thereby contravening 95976(d)6 and 95977(d).

Other examples include:

- The requirement under 95977.1 (b)3(R)1 for verification reports to be scrutinized by a different independent person each time. We do not believe this is necessary, practical or workable. We believe that after two or three projects, verifiers will no longer have the staff to "independently" review projects, if this requirement for different, independent parties is applied to each verification report.

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- The requirement 95977.1 (b)3R4(c) for verifiers to have "a final discussion with the Offset Project Developer" is also, in our opinion and experience unnecessary. We strongly suggest that there needs to be more flexibility
- 95977.1 (b) (3) (D) requires verifiers to make a site visit every year. We suggest that if would be much more flexible if they were required to undertake a site visit within two months of the end of the reporting period, allowing the project developer flexibility as to when to schedule a site-visit while still requiring a site visit occur in order for offsets to be issued.

Comments on the Livestock Protocol

Requirement to have a meter on every destruction device. From our experience nationally and internationally, we believe this requirement is unnecessary and overly conservative. We know that it will cost over $5,000 per extra biogas meter, further costs for annual maintenance and impose additional risks that the meters may fail, leading to downtime, etc.. Where there are identical destruction devices and those destruction devices can be demonstrated to be operating there is no need for additional meters to determine the gas which flowed to each device.

Avoid confusion over use of data. We strongly recommend that ARB allow project developers to use more updated versions of data, such as volatile solids defaults. This is permitted currently under CAR. Reflecting this in the protocol would reduce the need for project developers to seek clarification from registries who would need to check with ARB.

Other

Program Costs

Camco suggests that ARB provide some benchmarks or indicative caps on transaction, administration and MRV costs. For example, there are no provisions regulating the cost of registering projects and issuing credits, or whether these will be uniform or different for different projects. Providing project developers, verifiers and others engaged in the process will bring more clarity and certainty into the market, and will encourage more project developers to participate.

Carry-over of offset allowances

Camco supports the revision made from the previous version of the regulations (i.e. not requiring utilization of the full 8% limit on offsets within one year) to permit covered entities to carry-over their offset allowance within compliance periods. We believe this strikes the right balance between providing flexibility to covered entities while at the same time stimulating the development of the offset market. However, we would not support the carry-over from one compliance period to the next as we are concerned this may constrain the development of the offset sector and make demand for offsets, and thus the development of projects, irregular and unpredictable particularly in the early stages of the market.

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Offsets will provide an important cost containment mechanism for the market, particularly in the later stages of the program beyond 2015. Demand for offsets through the initial compliance period will provide all market participants with the opportunity to become familiar with this aspect of the program and should allow project developers, verifiers, registries and other service providers time to develop to meet gradually increasing demand.

We would welcome the opportunity to have further dialogue with ARB staff to discuss these comments and the improvements we suggest.

Yours sincerely,

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