



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

September 26th 2011

RE: Comments on the Proposed 15-day Modifications to the Proposed Regulations to Implement the California Cap-and-Trade Program Released on September 12th

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 emission 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 emission reductions and clean energy projects. In the U.S., we have developed a significant portfolio of projects registered with the Climate Action Reserve (CAR) which generate emission reductions from livestock projects. 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 using 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. We previously provided comments emphasizing that a number of regulations set-out in the 15-day changes would make it unnecessarily difficult, costly and increasingly risky to generate offsets from livestock projects.

We believe the latest version goes some way towards addressing these comments. We thank ARB for listening to and acting upon our comments and comments by others. However, there remain a number of areas of concern which we would like to highlight below for ARB's attention.



Recognizing Small-Scale Projects

We previously wrote of the importance of scaling the regulations to reduce transaction and other costs and risks for smaller-scale projects where there is large scope for emissions reductions, particularly in California. We believe many of the changes made by ARB in the latest regulations provide increased flexibility.

For example, the modifications to the invalidation provisions, flexibility on metering requirements in the Livestock Protocol and the introduction of the threshold to permit projects generating fewer than 25,000 emission reductions per year to perform a verification that covers two consecutive verification periods.

However, we urge ARB to go further to provide smaller-scale projects increased flexibility by, for example, not requiring small-scale early-action projects to undergo a costly review and possible re-verification and setting the threshold for invalidation of emission reductions generated by these projects to a minimum of 1,250 (5% of 25,000) – avoiding a situation where a project has to undergo a full re-verification costing over \$10,000 for a small number of emissions reductions. Limiting the Statute of Limitations provisions further for projects generating less than 25,000 would also stimulate demand amongst buyers to support smaller-scale projects and lower costs for project developers.

We are pleased, to see that ARB has revised the regulations in light of previous comments, for instance, on some of the overlaps between the regulations and the protocols and verifier requirements. However, there are still examples, in our view, of over-prescription in the regulations as to the activities which must be carried out by a verifier.

For example, requiring a verifier to undertake certain actions central to adequately assess the emission reductions generated by a project is vital. However, requiring too many actions to verify increases costs by increasing the verifier's workload and creating additional paper trails and lowers flexibility, which is important for small-scale projects.

Examples of this include:

- The requirement that the offset verification team has a final discussion with the Offset Project Operator (95977.1(b)(3)(R)4(D);
- Understanding data management systems used by Project Operators (95977.1(b)(2)(b)). We believe it is sufficient for data management systems to comply with the data collection and storage provisions of the Protocol without further requiring additional data.
- Requiring each offset verification to be reviewed by an independent reviewer who has had no involvement with the offset project. Many verification companies only have two or three accredited staff for a particular protocol. We believe it would be better for the ARB accreditation process to require verifiers to have an approved review process rather than require this in the regulations



- 95977.1 (b) (3) (D) requires verifiers to make a site visit every year. We agree that a verifier should visit a site as part of each verification. However, the wording of this regulation provides little flexibility as to when a site visit should take place. It is not clear whether it should be each calendar year, or within a year of the previous visit or some other period. We suggest that it would be more flexible if verifiers 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 to take place in order for offsets to be issued.

We provide comment on some of the specific changes made by ARB below:

Invalidation – 95985(f)

The revised regulations are much improved over previous versions. They provide greater clarity on reasons for invalidation. They limit the impact of invalidation to the amount of any overstatement. However, the determination and process of invalidation, at present, do not require or allow any independent assessment concerning the amount of the overstatement.

Rather, it places the responsibility entirely in ARB's hands. The Offset Project Operator should be able to request a second verification of the emissions reductions and ARB should take the result of any second verification into account. The current approach may result in ARB interpreting Protocol or other guidance in a different way from that of an experienced verifier. At a minimum, the Offset Project Operator should have the right to, and ARB should be required to, consider a second, independent opinion.

Transition of Early Action Offset Projects – 95990(k)

We support the removal of the restriction that offset projects are unable to transition to ARB Compliance Offset Protocols before January 2013. To encourage market participants to work with the ARB Protocols and the regulations, ARB should go further and specify a date when projects can begin using the ARB Protocols.

As currently written, Offset Project Operators have no certainty as to when they should start contracting verifiers, modifying monitoring plans, preparing additional documentation etc.. They do not know whether or not they should delay verification in the hope that ARB will have the infrastructure in place, or whether they should verify through, and then pay for, a desk review to create a compliance offset.

ARB has specified dates for when the first auctions will be created. ARB should also consider specifying a date for when the first compliance offsets can be created.

95980.1 – Process for Issuance of Registry Offset Credits

We commented previously that the process for issuance of registry offset credits was inflexible and that the timelines are too short. In the revised regulations ARB has shortened the timeline further, requiring a project to issue offsets within 15 days of a determination, pursuant to 95980(b).



Typically, a charge is levied against the Offset Project Operator per offset issued. This needs to be paid in order for issuance to occur, yet the amount can only be determined once the project has completed the steps under 95980(b). In addition Offset Project Operators may want to delay issuance for a number of reasons. To provide greater flexibility, we urge ARB to require registries to issue offsets 15 days after *payment has been made*.

95852.1.1 - Treatment of Biogas

Camco is concerned that as currently written the regulations would not permit gas from a new biogas facility to earn a compliance exemption for the emissions produced when that gas is destroyed 95852.1.1. The construction of new biogas facilities represent an overall increase in the amount of biogas, not resource shuffling. Contracts for purchasing biogas from a newly constructed facility should be able to receive a compliance exemption, and such biogas should also be able generate RECs and offset credits. Under the current regulations, it appears this may be the case, but it is not clear. To clarify this position for developers Camco hopes that ARB can provide further clarification in its Final Statement of Reasons

Furthering this uncertainty is the contradiction between 95852.2(a)(8), which states that biomethane and biogas from all animal, plant and other organic matter do not count toward an entity's compliance obligation, and 95852.1.1, which requires that the biogas fuel have a contract for purchasing prior to January 1, 2012.

95852.1.1(b) - Offset Credit Creation from Biogas Facilities

Modifications made to 95852.1.1(b) go some-way to making ARBs intention on the offset and other environmental credit biogas facilities may earn clear. However, Camco feels that this language could be made clearer and/or accompanied by an explanation in the Final Statement of Reasons clarifying the intent and meaning of the regulation. As Camco understands the regulation, ARB intends to permit biogas facilities to generate offsets equivalent to the GHG emissions avoided through the installation of a digester or cap to capture methane which would have otherwise been emitted and permit the facility to generate Renewable Energy Credits from the generation of energy through use of the gas. However offset credits are not available for CO₂ emissions associated with the combustion of the biogas.

Comments on the Livestock Protocol

Utilize the most accurate version of data. The defaults prescribed in the ARB Livestock Protocol for Volatile Solids and Livestock weight are out of date and are not consistent with the latest EPA reports. ARB should allow the use of the most recent versions of data, provided they are sourced from a recognized publication, in order to most accurately reflect emission reductions.

ARB should compare its 2007 volatile solid defaults with the latest version published by the EPA in 2011, reflecting changed feeding practices (see Inventory of U.S. Greenhouse



Gas Emissions and Sinks: 1990-2009 (April 2011) Annex 3 Methodological Descriptions for Additional Source of Sink Categories. Chapter 3.10, Table A-186, page A-225).

The weight of a lactating dairy cow has also changed from 604kg to 680kg (see as above but Table A-184, page A-222). ARB should clarify that Offset Project Operators are allowed to use the latest versions of the EPA-specified values. Not doing so may result in developers continually petitioning ARB and registries for variations to Protocols and/or verifiers continually seeking guidance from ARB.

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

Yours sincerely,

Charles Purshouse
Vice President – Carbon Services