



December 8th, 2010

Kevin Kennedy, Ph.D
Assistant Executive Officer – Climate Change
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Camco International Group's Comments on the Air Resources Board's October 28, 2010 Proposed regulation to Implement the California Cap-and-Trade Program – Part IV Compliance Offset Protocols

Dear Dr. Kennedy,

Camco International Group, Inc. ("Camco") is pleased to submit these comments on two of the compliance offset protocols and on the proposed Cap-and-Trade program proposed by ARB staff. Camco has also provided additional comments on the broader regulations in conjunction with industry groups.

Camco strongly supports the use of environmentally rigorous offsets as a critical component to achieving the State's emissions reduction targets while providing cost-containment in the California cap-and-trade program. As a leading offset-project developer, Camco has significant experience in applying offset protocols to a variety of project types in the US and around the world. In particular Camco is one of the leading developers of emissions reductions from livestock projects under the Climate Action Reserve and is also participating in projects which use the Reserve Forest Protocols. Camco offers some specific comments below to ARB on the proposed Forestry and Livestock Protocols and on the Cap-and-Trade program.

Livestock Protocol

1. ARB needs to provide greater clarity on how project owners and offset project developers should obtain timely clarification on certain aspects of the protocol. (It is not clear whether qualified positive verification statements will allow verifiers to accept deviation from or slight changes to protocols as dictated under certain project specific circumstances). Currently, updates to quantification methodologies have to be made public through a public review and board adoption process. There are likely to be numerous instances where project owners and developers require clarity on the interpretation of the guidance provided or wish to deviate from the protocol due to some unforeseen event. Waiting for public review and board approval may result in the project missing deadlines prescribed in the regulations. For example demonstrating that devices are operational on an hourly basis is open to interpretation in the case of generating units which are not operating because of insufficient gas flow. ARB needs to



enable verifiers and/or registries to make decisions on deviations and variances within a short-time frame and to specify what constitutes a deviation or variance.

2. The requirement to report on a calendar year basis will increase costs for projects which don't begin on January 1st by requiring them to perform an additional verification and will also lead to verification bottlenecks (and likely an increase in prices for verifiers) at the start of each year. This impacts smaller projects and livestock projects in particular, which are unable to shoulder additional transaction costs, more than it does larger projects.
3. There is no mechanism for updating default values provided in the protocol other than to go through public review and board approval. Some defaults are updated on a regular basis. For example Table A.5. refers to volatile solid default values provided by the EPA in its Inventory of U.S. GHG Emissions and Sinks provided to the UNFCCC. This table is updated each year. (2008 is currently the most recent version, not 2007). It is good practice to use the most recent version. It appears as though project developers will have to use the 2007 table until the 2008 is officially approved by ARB. This seems unnecessary – ARB should allow project developers to use more recent data it exists.
4. The methane destruction efficiency figure for lean-burn ICE's is overly conservative, out of date (taken in the 1990's) and not consistent with EPA figures. It is prohibitively expensive to use a site specific destruction efficiency figure as the protocol allows (around \$5,000 per test per engine) and as any site specific test also needs to be performed on an annual basis it is likely that project developers will be forced to use the default figure of 93.6%. EPA guidance from some years ago (see Table 3.2-1 <http://www.epa.gov/ttn/chief/ap42/ch03/final/c03s02.pdf> - reciprocating natural gas engines) gives a destruction efficiency figure of 97.1% and the EPA Draft Manure Management Protocol provides a destruction efficiency of 99%. Requiring project developers to use such a low destruction efficiency figure and making it prohibitively expensive for them to use an updated figure unnecessarily penalizes small livestock projects.
5. Section 6.1.1 requires that field equipment be returned to the manufacturer if it is shown to be outside of a +/-5% threshold when calibrated. This is unnecessary and expensive. Some meter manufacturers accept +/- 10% threshold as within calibration and acknowledge that a variety of field variables can affect calibration checks. Returning a meter to the factory takes time (and means that no gas flows can be recorded) and is expensive. ARB should ask that the meter meets manufacturers requirements with respect to calibration checks rather than impose an arbitrary threshold.

Forestry Protocol



Our questions refer specifically to projects that have an offset project commencement date in the 2007-2011 range. These are projects that are already in development and possibly operating, and which may have been submitted to the CAR for listing under their voluntary program.

1. The forestry protocol states in section 3.3 that “projects must be listed within 6 months of the offset project commencement date.” This seems to present a barrier for projects with a 2007-2010 commencement date, based on the triggers listed in section 3.2. Is this intended as such? Does the protocol assume that the project would have been listed with CAR and that the CAR listing satisfies this requirement? It seems like an unnecessary barrier to certain projects.
2. The forestry protocol states in section 3.5 that conservation easements must “expressly acknowledge that ARB is a third party beneficiary of the conservation easement with the right to enforce all obligations under the easement...” Again, this is a barrier for projects with a 2007-2010 commencement date, for which the relevant easement would already be in place. It seems to us that a Federal conservation easement that, for example, protects project lands in perpetuity and subordinates all timber harvest rights under the easement, which is itself legally enforceable under state and Federal law, ought to provide a sufficient basis for enforcement.

Section 95985: Cancellation of Credits

Camco believes that the cancellation of credits due to mistake is too drastic of a response that risks unfairly stigmatizing market participants and disrupting pre-existing contracts. Under the proposed regulations, if already-issued offset credits are found to be ineligible due to mistake or fraud by the project operator or verifier, the credits will be canceled from any holding account.¹ Any credits that have already been submitted for compliance will also be canceled, and the entity that submitted the credit will be responsible for replacing the credit.²

Camco understands why, in cases of fraud, the cancellation of credits may be warranted to preserve market integrity. For credits that have been issued by mistake, however, little will be served by cancellation of the credits that could not be equally accomplished by less disruptive means. Specifically, ARB could require that the responsible party account for and replace the missing emissions reductions through the purchase and retirement of additional credits. It is important to remember that, by the time the credits have been issued, the emissions reductions have already been subject to scrutiny by a project developer under oath, reviewed by an accredited independent third-party verifier, and accepted by ARB.

¹ § 95985, Proposed Order at A-160-161.

² *Id.*



With respect to those mistakes that do make it through the verification and credit issuance process undetected, Camco request that ARB provide additional guidelines on which situations warrant correction retroactively. Camco's suggested guidelines are as follows:

Adopt a Materiality Threshold: For starters, some mistakes fall below a materiality threshold where the potential for disruption of contractual arrangements outweighs the incremental gains from correcting the mistake. Camco recommends a materiality threshold of 5%. Camco would be happy to provide further comments on materiality – this is an issue which present in other offset mechanisms, particularly the CDM.

A materiality threshold is especially warranted for types of mistakes that, if not corrected, are just as likely to understate as they are to overstate the emission reductions at the programmatic level, resulting in little to no net environmental impact. In these instances, it may be more productive to act prospectively through protocol revisions rather than revisiting prior emissions calculations.

Require the Replacement of Credits Rather than the Invalidation of Credits: For mistakes of a more material and systemic nature that do warrant correcting retroactively, Camco recommends that the appropriate response should be to account for and replace the missing emissions reductions through the purchase and retirement of additional credits, rather than the invalidation of already issued credits. Based on Camco's experience nationwide in the agricultural sector, we are concerned that the cancelation of credits risks being misinterpreted in the marketplace as evidencing operational failure or neglect for what may be attributed to nothing more than an honest mistake or the wisdom of hindsight. The risk of credit cancellation will also greatly complicate credit sales contracts. Rather than potentially stigmatizing project owners, operators, verifiers and current offset credit holders, Camco respectfully submits that the same environmental results could be achieved by issuing a corrective order requiring the responsible party to account for the shortfall through additional credit purchases. If that order is not complied with within a reasonable time, then the cancellation of existing credits and other corrective actions may be warranted.

At a minimum, Camco recommends that ARB state in the regulations or accompanying guidance that it will determine on a case-by-case basis whether the invalidation of credits is warranted to preserve market integrity, or whether the proper accounting and replacement of the emission reductions could achieve the same objective with less disruption to existing contractual and institutional arrangements. As part of this assessment, Camco suggests that ARB take into account the number and status of current credit holders, who, for example, may be non-regulated entities who have already purchased and retired the credits for social responsibility purposes.

Recognize the Importance of Continuous Improvement: In certain situations, it may make sense to go back and correct clear and material errors (e.g. mathematical errors or misapplications of formulas) even after the credits have been issued. In other instances, however, what could be characterized as a "mistake" may actually be the wisdom of hindsight that invariably comes from additional project data and operational experience.



As additional data and operational experience is collected, it will always be possible to revisit prior year's data to come up with more precise estimates of emissions reductions. It is critical that ARB not create disincentives for project operations to seek out better information and to reflect their improved understanding in subsequent verification cycles. Therefore, Camco recommends that, when ARB decides to review previously issued credits, it should focus on identifying and correcting clear and material errors -- rather than seeking to revisit previous emissions estimates based on new project data.

Establish a Statute of Limitations of One Verification Cycle: Camco recommends that ARB establish a statute of limitations of one verification cycle for the correction of mistakes in the issuance of credits. One verification cycle provides a process and a reasonable amount of time in which to uncover any mistakes that went undetected during the previous year's verification cycle and credit issuance process, while allowing for a reasonable degree of regulatory certainty and closure to existing contractual commitments.