

October 30, 2015



California Air Resources Board
Climate Change Program
1001 "T" Street
Sacramento, CA 95814

[By USPS Mail]

RE: Comments to ARB's Short-Lived Climate Pollutant Reduction Strategy Draft

Dear Climate Change Program,

The Animal Legal Defense Fund (ALDF) submits this comment to ARB's September 30, 2015 Short-Lived Climate Pollutant Reduction Strategy Draft to express serious concern that ARB is doubling down on its failed strategy to reduce methane emissions from animal agriculture by asking for voluntary and marginal reductions. Methane is the most significant short-lived climate pollutant in California, and animal agriculture emits 55% of the methane in the state.¹ It is therefore disturbing that ARB plans to remain committed to its strategy of voluntary methane reductions that it admitted in its First Update to the Climate Change Scoping Plan has not been working.² Instead of clinging to this failed policy, ARB should seize the opportunity presented by SB 605 and lay groundwork for meaningful reform.

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I. REDUCING DAIRY EMISSIONS THROUGH VOLUNTARY REDUCTIONS DID NOT AND WILL NOT WORK

While recognizing that climate change is a "serious threat" to California's "economic well-being, public health, natural resources, and [] environment",³ ARB has inexplicably failed to impose effective regulations to hold the animal agriculture industry accountable for its sizeable contribution to GHG emissions in California. As a result, ARB's own GHG inventory found that emissions from the animal agriculture *increased 16%* from 2001-2012 at a time when emissions from almost every other sector remained steady or decreased.⁴ This caused ARB to conclude in 2014 that the voluntary strategy to encourage manure digesters in the dairy industry was a failure:

¹ Draft Short-Lived Climate Pollutant Reduction Strategy (Sep. 2015), at p.39.

² First Update to the Climate Change Scoping Plan (2014), at p.57.

³ Health & Safety Code § 38501(a).

⁴ California Greenhouse Gas Emission Inventory: 2000-2012 (2014 Edition).

The installation of manure digesters to reduce methane emissions was included as a voluntary strategy for the agricultural sector in the initial Scoping Plan. However, voluntary installation of anaerobic digesters at dairies in California has not increased as expected.⁵

With this context of failure in mind, it seems very unlikely that ARB will be able to secure significant methane reductions from the largest SLCP-emitting industry in the state (i.e. animal agriculture) without a significant shift in policy towards compulsory market-based or direct regulation. Nonetheless, ARB's Strategy Draft signals that ARB remains committed to the voluntary reductions approach and hopes to make it work simply by making slight adjustments to the program.⁶

Although ARB concedes that tougher "regulatory action" may be considered in the future if necessary to curb emissions from the dairy industry, the Strategy Draft fails to expressly define when such regulatory action will be developed, contemplate what that regulatory action might entail, and outline what background research may be necessary before implementation of such regulatory action. As a result, these oversights could cause several years of unnecessary delay in taking regulatory action even once it becomes obviously evident that the voluntary strategy has failed to adequately reduce emissions.

Instead – *if ARB sticks with the voluntary reduction approach in the first place* – ARB's comprehensive plan should at the very least commit to taking compulsory regulatory action if any of the stated emission reduction goals are not met (20% by 2020, 50% by 2025, and 75% by 2030). Additionally, ARB should consider the form of that regulatory action, and support research in the meantime that is necessary to support the feasibility of such regulatory action.

II. ARB SHOULD ADOPT ALTERNATIVE COMPULSORY CONTROL MECHANISMS

ARB could adopt compulsory regulatory action simply by *requiring* that large dairy facilities install scrape systems or manure digesters to reduce methane emissions from manure. However, this manure management approach is subject to many problems that ALDF pointed out in its comments to ARB's Concept Paper. Namely: scrape systems and manure digesters are bad for the environment, may not ever be feasibly implemented, and do nothing to reduce enteric fermentation from dairies which account for roughly half of the industry's methane emissions. The Strategy Draft does not even outline a reasonable plan for controlling enteric fermentation, instead completely relying on the dairy industry being "proactive" and amorphously "continuing historic annual improvements."⁷

⁵ First Update to the Scoping Plan, at p.57.

⁶ Strategy Draft, at pp.43-38.

⁷ Strategy Draft, at pp.47-48.

Accordingly, ARB can and should adopt alternatives to the Draft Strategy's approach to account for methane emissions from the dairy industry.

1. Cap-and-Trade

Primarily, ARB should consider holding dairies accountable for their emissions through the cap-and-trade program as proposed by ALDF in its Petition for Rulemaking and Comments to the Concept Paper. Cap-and-Trade regulation of methane emissions from the dairy and other animal agriculture industries in California would allow ARB to hold facilities accountable for failing to reduce emissions, and empower them to purchase offsets in the cap-and-trade program – effectively subsidizing reductions elsewhere when they cannot be reduced directly at the facilities. This approach is especially appropriate to hold the industry accountable for enteric fermentation emissions because ARB has failed to articulate a concrete approach for significantly reducing emissions from enteric fermentation.

While ARB has expressed some concern to ALDF about the need to develop better models to more accurately measure manure and enteric fermentation emissions from animal agriculture facilities, it has failed to articulate why better models cannot be researched and developed or why options such as discounting suggested by ALDF in its Concept Paper comments would not work. ARB is relying on speculative future advancements in manure and enteric fermentation management, so it is inexplicable that it is refusing to even consider or study ways to make the cap-and-trade approach work better.

2. Pasture-Based Farming

Additionally or alternatively, ARB could consider requiring dairies to move to a pasture-based production model as proposed by other public interest organizations in other comments to ARB's Concept Paper. ARB too narrowly focuses on scrape systems and manure digesters as the best means to reduce manure emissions from the dairy industry. However, as explained in previous comments, scrape systems and manure digesters are associated with environmental problems, and may not be implemented at all dairy facilities.

By contrast, pasture-based farming would result in an enormous reduction of methane emissions from manure management. It would also result in environmental and animal welfare benefits by decreasing the environmental and animal welfare harms associated with high population density of large cow herds. ARB states in its Strategy Draft that pasture systems could result in "animal welfare concerns", but this conclusory statement seems unfounded. A pasture-based system should result in a significant net increase to animal welfare assuming the system is well-managed. Additionally, ARB should not shy away from imposing higher costs on the industry, e.g. by requiring large dairies to utilize more land or decrease herd size. Dairy production is inherently methane-intensive, and imposing higher costs on the industry is inevitable if meaningful reductions are achieved. Higher costs could also lead to decreased demand, decreased production, and more reliance on plant-based alternatives with a much smaller GHG footprint.

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ALDF appreciates ARB's acknowledgement that methane originating from the dairy and animal agriculture industries must be controlled, but is disheartened that the voluntary reduction approach outlined in the Strategy Draft is naïve and will ultimately prove ineffective without any alternative developed. Instead, ARB should seriously consider cap-and-trade as a mechanism that can effectively hold the dairy industry accountable for its enormous methane emissions and resulting impact on climate change. Whatever route ARB ultimately pursues, any control measures it adopts should be mandatory rather than voluntary because voluntary compliance is a failed policy with the livestock industry.

Thank you for exploring this issue, and ALDF looks forward to continuing to work with ARB as the process moves forward.

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