March 11, 2016

Comments on Potential 2016 Amendments to the Cap-and-Trade Regulation

Thank you for the opportunity to provide these comments regarding potential amendments to the Cap-and-Trade Regulation.

Headquartered in San Francisco, Origin Climate (formerly TerraPass) is a Certified B Corporation whose mission is to fight climate change by bringing emission reduction projects to fruition. Since 2004, we have helped dozens of family-owned dairy farms fund anaerobic digester projects through the sale of carbon offsets. We serve as Authorized Project Designee for many such projects.

We are deeply appreciative of the positive impact that the Cap-and-Trade Regulation has had on dairies seeking to improve their environmental performance by installing anaerobic digester technology. California is the #1 milk producing state in the United States, and ARB's support for digester technology is not only improving the air, soil, and water quality at and around dairy farms, but it is also creating new California jobs in both urban and rural areas. We would like to offer the following comments as means of increasing this positive environmental and economic impact:

- **Section 95973(b). A clearer method of testing for the regulatory conformance of offset projects is needed.** Many comments on this paragraph have been submitted in the past and many are submitted on this current round of comments. With several years of practical experience now behind us, there appears to be general consensus among all parties (ARB staff included) that attempting to apply this language to real-life project situations is time-consuming and in many cases ineffective in achieving its intended purpose.

  We understand the fundamental need to prevent funds from the sale of offsets (which ultimately derive from California ratepayers) from flowing to offset projects that are harming or degrading the environment. We also understand the need to create cost containment mechanisms that reduce the cost burden of the Cap-and-Trade Regulation on California ratepayers while achieving the needed emission reductions.

  The language as currently written fails to achieve these objectives effectively or efficiently since it subjects the terms “enforcement action” and “directly applicable” to the interpretation of staff with little experience in the operation or direct regulation of sites and facilities hosting offset projects. This subjectivity has at times resulted in extensive fact-finding missions that can stretch out over months (or longer) and absorb large quantities of staff time on all sides, almost exclusively on issues that have no fundamental impact on or relationship to the environmental integrity of the offset credits or projects.

For example, we have seen ARB staff make certain judgments about regulatory compliance that go beyond any formal notice from the governing jurisdiction. It seems an undue burden and process for ARB staff to interpret the legislative code of other states and jurisdictions—particularly when those jurisdictions did not themselves issue a formal notice of noncompliance.

With this in mind, we would offer the following ideas as a means of improving the efficiency and efficacy of the offset program:

i. Add language to clarify the definition of "enforcement action" as a fine, penalty, or similar punitive action. Such a definition would serve to identify any real threats or adverse impacts to the environment and avoid staff time being lost on extensive research and adjudication of routine administrative notices, which comprise the bulk of the communications (at least in the agricultural sector) between an offset project operator and its regulator.

ii. Add language to clarify the definition of "directly applicable" as laws or regulations that apply to the incremental activities and facilities resulting directly from the implementation of the offset project. This would help avoid the loss of staff time on researching activities that have no bearing on the environmental integrity of the projects and are not being funded by proceeds from the sale of offset credits.

- **Section 95973(b). Crediting eligibility should only affect the period of regulatory noncompliance, not the entire Reporting Period.** We echo the comments made by others on this issue. Many instances of regulatory noncompliance are minor and temporary in nature and are often remedied immediately upon discovery. As such they generally do not affect the integrity of the remaining emission reductions within the reporting period. Furthermore, removing a noncompliance interval from the emission reduction calculations within a reporting period is not difficult to quantify or verify. Finally, if the Regulation ties the period of ineligibility to the period of noncompliance, it would actually create an incentive for project operators to return to full compliance as quickly as possible.

- **Section 95977.1(a) Rotation of Verification Bodies.** The language in this section has been applied in such a way as to disallow contracting with verification bodies after selecting a different verification body. We recommend altering the language of Section 95977.1(a) to specify that an offset project "shall not have more than six Reporting Periods verified by the same verification body or offset verification team member(s) within a 9 year span, unless otherwise specified in section..."

- Comments specific to the **Livestock Project Compliance Offset Protocol**:

    - Appendix B Data Substitution Table B.1: We support other comments that have been submitted regarding the data substitution related to data missing for a period of greater than one week. When one parameter (i.e. flow) is missing for greater than one

week but evidence of the operational activity is available, projects should not be required to treat the gas as venting (i.e. take a zero BDE). This is not a venting event and should not be treated as such.

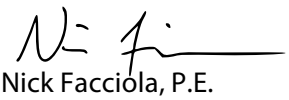
- 6.2(a)(3) Requiring manufacturer calibration service every 5 years is an arbitrary threshold and in some cases not recommended by the manufacturer. It is sufficient to follow the manufacturer guidance on calibration requirements. For example, some devices do not benefit by being removed from service and shipped across the country for servicing because the manufacturer has engineered methods for the equipment user to perform these same steps on site. We recommend the ARB not override the manufacturer's recommended calibration routines and schedules.
- 5.2(e) Site-specific biogas destruction efficiency (BDE). The table A.6 does not include all common types of biogas destruction. We propose that the term "Boiler" be expanded to read "Boiler, dryer, or other devices that combust gas for the purpose of generating heat".
- 6.2(d) Portable instrument calibrations need not be calibrated "once during each reporting period" so long as the device was in calibration (per manufacturer specification) upon use.

Origin Climate also would like to echo and support a few of the other points made by other parties:

- Requiring "wet" signatures on documents is a dated practice and an inefficient use of time, effort, and paper.
- The ARB Cap-and-Trade Regulation should update its GWP of Methane to be consistent with the latest numbers published in EPA 40 CFR Part 98.

Thank you for the opportunity to provide comments and please let me know if you would like to discuss anything written above.

Sincerely,



Nick Facciola, P.E.
Director, Carbon Projects
Origin Climate Inc.