



November 4, 2016

Rajinder Sahota, Branch Chief, Cap-and-Trade Program
California Air Resources Board (ARB)
1001 I Street
Sacramento, CA 95814

RE: Cap-and-Trade Regulation Amendments Workshop

Dear Ms. Sahota:

The American Carbon Registry (ACR), an ARB-approved Offset Project Registry (OPR) for the California cap-and-trade program, welcomes the opportunity to offer input on ARB's amendments to the cap-and-trade regulation, specifically with regard to consideration of the provisions of AB 197. Our comments herein focus on Section 5 of AB 197:

When adopting rules and regulations pursuant to this division to achieve emissions reductions beyond the statewide greenhouse gas emissions limit and to protect the state's most impacted and disadvantaged communities, the state board shall follow the requirements in subdivision (b) of Section 38562, consider the social costs of the emissions of greenhouse gases, and prioritize both of the following:

- (a) Emission reduction rules and regulations that result in direct emission reductions at large stationary sources of greenhouse gas emissions sources and direct emission reductions from mobile sources.*
- (b) Emission reduction rules and regulations that result in direct emission reductions from sources other than those specified in subdivision (a).*

We appreciate that ARB has laid out three options for achieving compliance with this provision, which can be summarized as reducing the offset usage limit, adjusting industrial allowance allocation, and retiring unsold pre-2021 allowances. Of these approaches, lowering the offsets usage limit, already only eight percent, would be the weakest and would even be counterproductive in achieving compliance with the above provision of AB 197.

A higher carbon price can ultimately be expected to result in lower greenhouse gas emissions at source, such as through efficiency enhancements and fuel switching. Among the three options presented, however, reducing offsets usage would be least effective at increasing the carbon price in the near term. This is because the allowance supply does not decline dramatically in the early years of the program. The

recent report, *A Preliminary Environmental Equity Assessment of California's Cap-And-Trade Program*¹, is being cited to justify further constraining offsets usage. It is critical to note that this study was limited to the first two years of the cap-and-trade program, the least aggressive compliance period. The mild cap decline, combined with successful complementary measures under the Scoping Plan, led to ample supply of allowances. During this particular span, allowance prices likely would not have been dramatically higher had there been no offsets supply. Compliance entities would have simply purchased and surrendered more allowances. Greenhouse gas emissions at source would have been no different.

It is important that ARB adhere to the letter of the law and established norms when determining the types of emissions covered by AB 197. The above provision of AB 197 explicitly requires ARB consider the “social costs of the emissions of greenhouse gases.” A common understanding of this social cost, and one increasingly recognized by state regulators and the courts, is U.S. EPA’s “social cost of carbon.” In estimating this cost, U.S. EPA incorporated only climate impacts. Criteria pollutant impacts were not included. Toxic pollutant impacts were not included. For ARB to interpret this social cost as anything beyond climate impact would be inconsistent with prevailing understanding of U.S. EPA. To “protect the state’s most impacted and disadvantaged communities,” as AB 197 mandates, is to mitigate these communities’ exposure to climate risk. Extreme weather events, heat, and drought imperil the lives and livelihoods of society’s most disadvantaged most acutely.

Reducing offsets usage would run counter to AB 197’s express focus on “social costs of the emissions of greenhouse gases.” As per AB 32 and the existing cap-and-trade regulation, all offsets represent “real” emissions reductions. In contrast, each allowance is a permit to release another tonne of CO₂ into our atmosphere. Offsets reduce the climate risks to which California’s disadvantaged communities are most vulnerable. Offsets advance AB 197’s goal of protecting these peoples.

Beyond the requirements of AB 197, offsets provide environmental and economic co-benefits, which can and do improve life in disadvantaged communities. Central Valley residents inhale fewer noxious odors when dairy digesters capture methane from manure. Native American tribes receive compensation for their conservation stewardship when they manage forests to sequester more carbon. Appliance disassembly to recover planet warming gases provides much needed jobs in economically depressed areas.


Aside from the measures ARB is currently considering to comply with AB 197, ACR encourages the development of additional options. One that ARB may wish to consider to prioritize “direct” emissions reductions could entail technical assistance. A program that identifies and facilitates implementation of emerging technologies could accelerate gains in production efficiency and cleaner energy.

Lastly, we would like to highlight that the aforementioned provision of AB 197 applies only when ARB adopts “rules and regulations pursuant to this division to achieve emissions reductions **beyond** the statewide greenhouse gas emissions limit” (emphasis added). That is arguably impracticable. Regulations are not intended to push California beyond compliance. When they do, it is incidental, and it would be difficult at best to parse regulations incentivizing entities to go over and above compliance from those that don’t.

¹ Cushing, et al, Sept. 2016.

We appreciate the opportunity to provide these comments, and we look forward to continued engagement as the process moves forward. If you would like to further discuss our thoughts, please feel free to get in touch.

Respectfully,

A handwritten signature in black ink that reads "Arjun Patney". The signature is written in a cursive, flowing style.

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