

November 30, 2018

To: Rajinder Sahota
Assistant Division Chief
Industrial Strategies Division
California Air Resources Board
1001 I Street
Sacramento, California 95814

Online submission: <https://www.arb.ca.gov/lispub/comm/bclist.php>

COMMENTS ON PROPOSED AMENDMENTS TO THE CALIFORNIA CAP ON GREENHOUSE GAS EMISSIONS AND MARKET-BASED COMPLIANCE MECHANISMS REGULATION

Dentons US LLP, on behalf of Foam Supplies, Inc. and True Manufacturing Co., Inc., submits the following comments with respect to the proposed language for Direct Environmental Benefits in the State, we respectfully suggest that the proposed language adds an ambiguity, though it was clearly intended to eliminate an ambiguity.

As proposed, some might argue that no project which follows an approved Compliance Offset Methodology to reduce GHGs would satisfy DEBS unless it also reduces another pollutant in the State. The staff discussion makes no mention of such an intent. We recommend that the phrase “to the extent” be added, for both air and water pollutants. This would avoid an interpretation which denies ANY credit for GHG reductions at all. The Compliance Offset Methodologies do not recognize all GHG reductions in a project. Moreover, if a methodology can be demonstrated as overly conservative and that the real reductions are greater than those credited, then the DEBS criteria should be deemed satisfied.

We would suggest the modified language read as follows:

PROPOSED

§95989. Direct Environmental Benefits in the State.

(b) Any project located outside the State of California may submit the following information to ARB to enable a determination of whether the project provides direct environmental benefits in the State. Such determination must be based on a showing that the offset project or offset project type provides for the reduction or avoidance of emissions of any air pollutant to the extent that is not credited

pursuant to the applicable Compliance Offset Protocol in the State or a reduction or avoidance of any pollutant to the extent that is not credited pursuant to the applicable Compliance Offset Protocol that could have an adverse impact on waters of the State.

We appreciate the opportunity to submit these comments, and look forward to the Board proposing to consider updating the list of appropriate Compliance Offset Methodologies.

Respectfully,

Susan E Wood

Susan Wood, Senior Advisor

Jeffrey Fort

Jeffrey Fort, Partner

Matthew Adams

Matthew Adams, Partner