AB 398
Compliance
Offsets Protocol
Task Force Meeting

March 2, 2020
Agenda

- Opening Remarks by Richard W. Corey
- Introduction of Compliance Offsets Protocol Task Force Members
- Discussion of Bagley-Keene Open Meeting Act and Public Records Act Requests
- Review of Task Force Charter
- Discussion of Schedule
- Background and History of the Compliance Offset Program
- Considerations in Identifying New Project Types
- Discussion
## Task Force Members (1 of 2)

<table>
<thead>
<tr>
<th>Stakeholder Group</th>
<th>Name</th>
<th>Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scientists</td>
<td>Frank Mitloehner</td>
<td>Department of Animal Science, UC Davis</td>
</tr>
<tr>
<td>Air pollution control and air quality management districts</td>
<td>Bruce Springsteen</td>
<td>Placer County Air Pollution Control District</td>
</tr>
<tr>
<td>Carbon market experts</td>
<td>Emily Warms</td>
<td>New Forests</td>
</tr>
<tr>
<td>Tribal representatives</td>
<td>Timothy Hayden</td>
<td>Yurok Tribe</td>
</tr>
<tr>
<td>Environmental Justice advocates</td>
<td>Neil Tangri</td>
<td>Global Alliance for Incinerator Alternatives</td>
</tr>
<tr>
<td>Labor and Workforce representatives</td>
<td>Antonio Sanchez</td>
<td>International Brotherhood of Electrical Workers, Local 11</td>
</tr>
<tr>
<td>Forestry experts</td>
<td>David Ford</td>
<td>American Forest Foundation; L&amp;C Carbon</td>
</tr>
</tbody>
</table>
## Task Force Members (2 of 2)

<table>
<thead>
<tr>
<th>Stakeholder Group</th>
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<tbody>
<tr>
<td>Agriculture experts</td>
<td>Robert Parkhurst</td>
<td>Sierra View Consulting</td>
</tr>
<tr>
<td>Environmental advocates</td>
<td>Brian Nowicki</td>
<td>Center for Biological Diversity</td>
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<tr>
<td>Conservation advocates</td>
<td>Constance Best</td>
<td>Pacific Forest Trust</td>
</tr>
<tr>
<td>Dairy experts</td>
<td>Jean-Pierre &quot;J.P.&quot; Cativiela</td>
<td>Cogent Consulting and Communications</td>
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<tr>
<td>Public member</td>
<td>Gavin McCabe</td>
<td>Private citizen, former Supervising Deputy Attorney General for California Department of Justice</td>
</tr>
<tr>
<td>Public member</td>
<td>Andrea Tuttle</td>
<td>Forest and Climate Policy</td>
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Chair: Gavin McCabe
Bagley-Keene Open Meeting Act (1 of 2)

- **Overview**
  - Designed to ensure a “state body” conducts its business openly and transparently
  - Sets requirements for a state body’s meetings, writings, and communications
  - Text of Act available at Government Code sections 11120-11132

- **Bagley-Keene applies here**
  - Bagley-Keene applies to state bodies created by statute
  - Task Force was established by statute in AB 398 (Garcia, Statutes of 2017)

- **General requirements**
  - Task Force must have a quorum—here, at least 7 members—to hold meetings or conduct official business
  - Information given to Task Force as a group must also be made available to the public
  - Task Force meetings must be public and noticed in advance
Bagley-Keene Open Meeting Act (2 of 2)

- Task Force communications
  - Task force quorum may not deliberate outside of noticed meetings
    - Includes informal gatherings unless they are purely social gatherings
  - Even communications involving less than a quorum need to be carefully managed to avoid triggering a Bagley-Keene issue
    - Series of communications of less than a quorum may enlarge to become a quorum and thus a prohibited “serial meeting”

- Formal vs. informal subgroups
  - Bagley-Keene also applies to subgroups of three or more persons “created by formal action of the state body”
Public Records Act Request

- Overview of California Public Records Act (PRA)
  - Sunshine law that allows public to access many public agency records
  - Promotes transparency and public understanding of governmental activities
  - Does not require disclosure of personnel records, attorney-client advice, and certain other records

- PRA applies to Task Force
  - PRA applies to local and state agencies, including “every state office, officer, department, division, bureau, board and commission or other state body or agency”
  - Task Force is a state body covered by the PRA

- Implications
  - Public may request copies of records in the possession of the Task Force, including records used/created for Task Force purposes
  - CARB’s Legal Office will work with the Task Force to process public requests if they arise
Task Force Charter

- **Scope of Responsibility**
  - Provide guidance to CARB in approving new offset protocols for the purposes of increasing offset projects with direct environmental benefits in California while prioritize:
    - Disadvantaged communities
    - Native American or tribal lands
    - Rural and agricultural regions

- **Process**
  - Task Force Role and Responsibilities
  - CARB Role and Responsibilities
  - Meetings and Report
  - Code of Conduct

- **Role of Facilitator**
Disadvantaged Communities

- Disadvantaged communities are defined as the top 25% scoring areas from CalEnviroScreen along with other areas with high amounts of pollution and low populations.
Task Force Schedule (1 of 2)

- First Meeting – March 2, 2020
- Workgroups
  - Assigned at First Meeting
- Draft Report – Early Fall
  - Each workgroup will submit their portions of report
  - Facilitator and CARB staff will compile into draft report for public comment
- Public Comment - Fall
  - Draft Report will be release for public comment prior to Final Meeting
  - At least 30 days for public comment
Task Force Schedule (2 of 2)

- Final Meeting and Adoption of Report – Late Fall/Winter
  - Task force will develop process for responding to comments and adoption the final report
- Board Presentation – Early 2021
Background & History of Compliance Offset Program
California GHG Emissions Reduction Targets

- Total GHG Emissions (MMTCO$_2$e)
- Emissions to be reduced by 2020
- Additional reductions by 2030
- Additional reductions by 2050

- 1990: 431 MMTCO$_2$e
- 2020: 2020 Target
- 2030: 2030 Target
- 2050: 2050 Goal

MMT = Million Metric Tons
Cap-and-Trade Program Background

- Critical part of State strategy to achieve GHG reduction targets
  - 2017 Scoping Plan that includes Cap-and-Trade is 4 times less costly than alternatives
- Covers ~80% of State’s emissions and works in concert with other complementary air quality and climate policies
- Greater than $12.5 billion generated for California Climate Investments
  - ~60% of investments are benefiting disadvantaged communities
Cap-and-Trade Program Design Features

- Multiyear compliance periods
- Banking (subject to holding limits)
- Allocation to industrial sources to prevent leakage
- Auction with price floor for carbon price discovery to inform investments and compliance decisions
  - Current auction reserve price: $16.68 (increases by 5% plus CPI annually)
- Allowance Price Containment Reserve
- Limited Offsets (8% limit through 2020 emissions; 4% and 6% limits afterwards)
  - Essential part of the Cap-and-Trade Program cost containment mechanism
Role of Offsets (1 of 2)

- Entities may use offsets to meet up to 8% of compliance obligation in the Cap-and-Trade Program. AB 398 changed limits post-2020:
  - Calendar year emissions for 2021 to 2025 have an offset usage limit of 4 percent
  - Calendar year emissions for 2026 to 2030 have an offset usage limit of 6 percent

- From 2021 through 2030, for entity’s compliance, no more than one-half of the offset usage limit may be sourced from projects that do not provide direct environmental benefits in the State

- Direct Environmental Benefits in the State
  - Reduction or avoidance of emissions of any air pollutant in the State or reduction or avoidance of any pollutant that could have an adverse impact on waters of the State
  - Benefits are beyond the GHGs that are credited pursuant to the applicable Compliance Offset Protocol
Role of Offsets (2 of 2)

- Sources of compliance offsets
  - Issued directly by CARB
  - Offsets issued by linked regulatory programs*
    - Linkage with Quebec starting January 2014
    - Sector-Based Credits (none approved to date)*

* Each linkage is subject to a rulemaking and stakeholder process
General Offset Criteria

- Reductions must meet AB 32 criteria
  - Real, additional, quantifiable, permanent, verifiable and enforceable
  - Additional - beyond regulation or what would otherwise occur (business-as-usual); technology or GHG abatement practices that are widely used would not be considered additional

- Offsets must result from Board adopted Compliance Offset Protocols

- Only CARB can issue compliance offsets under its Compliance Offset Protocols

- Offset credits cannot be issued for GHG emissions reductions activities or sectors that are under the cap

- We will consult with other linked jurisdictions regarding proposed protocols
Compliance Offset Program Development

- Held hundreds of individual and public meetings
  - International (CDM, Australia)
  - Domestic (Western Climate Initiative Design Document, RGGI)
  - California stakeholders (industry, environmental groups, air districts, market participants, voluntary offset programs)

- Conducted workshops and technical working groups to develop the design of the program and Compliance Offset Protocols

- Released multiple drafts of the Regulation and Compliance Offset Protocols for stakeholder comment

- Multi-year process
Protocol Development

- Compliance offset protocols must go through a regulatory process, including stakeholder process, environmental review, and finally Board approval.

- Standardized (top-down) approach to protocol approval
  - Protocols include standardized baseline calculations, additionality requirements and quantification methods developed for the relevant sector or project activity.
    - Could vary by region within the geographic scope of protocol.
  - Board will adopt one protocol for each project type.
    - Least administratively burdensome.
    - Limits subjectivity by providing clear, prescriptive requirements.
Eligible Sectors for Offset Generation

- Sectors covered by the Cap-and-Trade Program are **not** eligible
  - Electricity generation (including imports)
  - Large stationary sources (e.g., refineries, cement production facilities, oil and gas production facilities, glass manufacturing facilities, and food processing plants)
  - Fuel distributors (natural gas and propane fuel providers and transportation fuel providers)

- Eligible sectors/activities
  - Mainly agriculture and natural lands, as well as high GWP gases
  - Avoids double counting in the Cap-and-Trade Program

- AB 293 calls for consideration of offsets on agricultural lands, natural lands, and wetlands
Compliance Offset Protocols

- Six project types adopted
  - Urban Forestry (2011)
  - Ozone Depleting Substances (2014, 2011)
  - Mine Methane Capture (2014)
  - Rice Cultivation (2015)

- Originally developed for voluntary offset market
- Modified by CARB for compliance offset market
- Clear and enforceable requirements
ARB Offset Credits Issued (1 of 2)

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<thead>
<tr>
<th>Project Type</th>
<th>ARBOC Issued*</th>
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<tr>
<td>U.S. Forest</td>
<td>136,055,741</td>
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<td>ODS</td>
<td>21,565,607</td>
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<tr>
<td>MMC</td>
<td>6,823,798</td>
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<tr>
<td>Livestock</td>
<td>6,618,172</td>
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<tr>
<td>Urban Forest</td>
<td>--</td>
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<tr>
<td>Rice Cultivation</td>
<td>--</td>
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<tr>
<td>Total</td>
<td>171,063,318</td>
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* Number of ARB offset credits issued as of 26 February 2020
ARB Offset Credits Issued (2 of 2)

<table>
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<tr>
<th>State</th>
<th>ARBOC Issued*</th>
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<tr>
<td>CA</td>
<td>25,569,436</td>
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<tr>
<td>U.S. Forest</td>
<td>24,956,309</td>
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<tr>
<td>Livestock</td>
<td>613,127</td>
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<tr>
<td>Rest of US</td>
<td>145,493,882</td>
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<tr>
<td>Total</td>
<td>171,063,318</td>
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* Number of ARB offset credits issued as of 26 February 2020
Litigation History

- **Lawsuit**
  - In 2012, challengers filed lawsuit alleging that CARB’s standards-based approach failed to satisfy statutory requirements requirement, particularly related to additionality and permanence
  - CARB argued that acted within its authority and in a way that allowed for enforcement of its protocols

- **Results**
  - State trial court and appellate court ruled in CARB’s favor; state Supreme Court denied petition for review
  - Appellate court noted CARB’s standards-based approach:
    - “[E]mploys a protocol which establishes objective criteria for evaluating whether a specific type of project satisfies the additionality requirement”
    - “The ‘essence of ‘standardized’ offset crediting is to minimize the subjective judgment required in evaluating whether a project should receive a credit for emission reductions, and how much credit it should receive.’ ”
Considerations for New Protocols (1 of 2)

- **Additionality**
  - Is the project activity already business-as-usual?
    - Example: Wastewater treatment
  - Is the project activity already legally required?
    - Example: Landfill gas capture
    - Example: Organic waste composting
    - Example: Some refrigerants and foam blowing agents
  - Is the project activity covered by cap?
    - Examples: Solar, electrification, fuel switching
Considerations for New Protocols (2 of 2)

- Assuring permanence
  - Does the science support the permanence of soil sequestration?
    - Rangelands/Grasslands
    - Wetlands

- Accurate/Conservative Quantification
  - Are there existing methods to accurately quantify emissions reductions for new project types?
  - Have these methods been tested in practice?

- Updates to existing Compliance Offset Protocols
  - What updates to existing protocols would further support AB 398 or AB 293 requirements?
Additional Information

- Cap-and-Trade Program
  [http://www.arb.ca.gov/cc/capandtrade/capandtrade.htm](http://www.arb.ca.gov/cc/capandtrade/capandtrade.htm)

- Compliance Offset Task Force Webpage
  [https://ww3.arb.ca.gov/cc/capandtrade/offsets/taskforce.htm](https://ww3.arb.ca.gov/cc/capandtrade/offsets/taskforce.htm)

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