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# AB 32 Implementation Group

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Working Toward Greenhouse Gas Emission Reductions  
And Enhancing California's Competitiveness

December 10, 2007

Ms. Mary Nichols  
Chair, California Air Resources Board  
Via Email

Dear Ms. Nichols:

RE: Comments on AB 32 Scoping Plan

Thank you for the opportunity to participate in the scoping plan process under AB 32. We look forward to future hearings and workshops on the issue, and offer these comments as we begin the scoping plan process.

As a general point, even prior to the passage of AB 32, California was already a leader in addressing global warming. California already leads the nation when it comes to reducing greenhouse gas emissions through energy efficiency. Policies implementing AB 32 should recognize that the incremental costs for implementing greenhouse gas emissions could be substantial for businesses and large energy users.

**AB 32 Scoping Plan Requirements:** AB 32 requires the California Air Resources Board (CARB) to prepare a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions by 2020. The objectives of AB 32 include a regulatory scheme that is: 1) Minimizes leakage defined as a reduction in greenhouse gas emissions within the state that is offset by an increase in greenhouse gas emissions outside the state. 2) Equitable, minimizes costs, maximizes benefits and encourages early action to reduce greenhouse gas emissions. 3) Minimize impacts on low income communities. 4) Gives credit for early voluntary reductions. 5) Consistent with existing air quality rules. 6) Considers cost-effectiveness defined as the cost per unit of reduced emissions of greenhouse gases adjusted for its global warming potential. 7) Considers reductions in other air pollutants, diversification of energy sources. 8) Minimizes the administrative burden of implementing and complying with regulations.

The scoping plan will provide the analytical foundation for regulations to follow. To stay on schedule, do regulations by 2011 and achieve emission reductions by 2020, it is vitally important that CARB now dedicate sufficient technical and econometric resources to the development of the plan. During the early discrete action item process there wasn't enough staff or time to adequately study the recommendations for cost-effectiveness, for example, and as a result it is possible that time will be wasted on regulatory proceedings that are not justified under AB 32. We can't afford to have that happen after the scoping plan. Our recommendations below are meant to help create a thoughtful and economically justified plan so that the regulatory process will move forward smoothly, with little controversy and few wrong steps.

**Market Mechanisms:** Key to the successful implementation of AB 32 will be the extent to which market-based compliance mechanisms such as a cap and trade system are embraced. In fact, AB 32 specifically authorizes the scoping plan to include market-based compliance mechanisms. Furthermore, Governor Schwarzenegger clearly articulated why market mechanisms are needed: “It is essential that we continue to develop market-based approaches to reduce carbon emissions” and such approaches “harness the power of the marketplace by giving financial value to carbon allowances and creating a financial incentive for emission reductions.” In addition, scholars from Stanford, Harvard, University of California and other institutions have studied market mechanisms such as cap and trade systems and concluded that when well designed they not only can generate emission reductions at lower costs, they are actually more effective at achieving environmental goals than traditional command and control regulations.

And finally, markets have a proven track record for reducing emissions. Well-designed cap and trade systems have been used effectively in the United States and internationally to lower the cost of reducing emissions. They have been used to phase out leaded gasoline and ozone depleting substances. The Clean Air Act’s S02 Allowance Trading Program cut sulfur dioxide emissions in half with a savings of \$1 billion a year.

Getting the market mechanisms right is also essential. Everyone agrees that markets work best with many buyers and sellers, transparent prices and low transaction costs. Other market design choices are more controversial. Companies could be charged up front to emit any greenhouse gases. This “auction” would act like a multi-billion dollar tax on California companies and consumers – increasing costs to consumers and taxpayers and chasing jobs and investment away from California.

**Using Best Available Economic Modeling:** AB 32 requires that the best available economic modeling be used to evaluate the economic and non-economic impacts of potential measures to reduce greenhouse gases. The “Updated Macroeconomic Analysis of Climate Action strategies presented in September 2007 does not meet the criteria of “best available economic modeling.” We appreciate the efforts taken so far, but the macroeconomic impact analysis presented is not as robust and complete as was expected and does not meet the requirements of AB32. The scoping plan should revisit the CAT’s assessment of the NRM-NEEM Model, and specifically question why one of the most sophisticated economic models available was excluded from the results. Furthermore, no sensitivity analyses were conducted on these macroeconomic models. In addition, it’s not clear how the modeling completed to date will be converted into a methodology to determine cost effectiveness. And finally, these models need to take into account the potential risk of regulations to result in leakage where California emission sources simply move elsewhere.

We agree with the authors of AB 32 that using the best available modeling is essential for the effective implementation of AB 32. We strongly urge CARB to quickly convene a team of the country’s best economic modelers to review the work that has been so far and to recommend additional methodologies so that decision-makers will have the best available information about the benefits and real costs of the regulatory proposals they will be evaluating.

**Cost- Effectiveness Criteria:** Lack of cost-effectiveness criteria is a major weakness in the Board's implementation of this measure. AB 32 requires that all emission reduction measures be cost-effective (cost per unit of reduced greenhouse gas emission). To date, CARB has not yet developed a methodology or criteria to determine cost-effectiveness. The Board "presumed" its early actions were cost-effective even though no criteria or methodology for making that determination was shared with the public. Without such information, Board members really have no reliable means to compare which regulations make sense and which do not. We strongly urge CARB to subject its cost-effectiveness methodology to the same kind of scientific-peer review as we suggested above.

**Voluntary Early Actions:** AB 32 requires that the scoping plan provide a system for CARB to credit companies that voluntarily reduce greenhouse gas emissions. We've testified on several occasions the importance of moving quickly to satisfy this requirement, and have offered a method for moving this program forward. To reiterate, we hope you will focus in the very short term on providing certainty for on-site projects that may be on hold or delayed because of concerns related to allocations, baselines, credits etc. We just need to give these businesses assurances they will not be prejudiced by going forward with projects now versus after 2012. We think this could be done before the end of the year, in the form of a Board resolution or policy guidance document. The question how those early actions will be treated in the future (eligible for credit? impact on allocation of allowances? whether it's additional or not?) does not need to be decided now. What needs to happen is for agency to state that any projects undertaken since AB 32 went into effect will be given the same treatment as similar projects if they were to be undertaken after regulations are finally promulgated. CARB would have no responsibility to "approve" applications, or otherwise take on work load to answer hard questions in advance of regulations. Businesses would simply need to keep track of their emissions through mandatory reporting or the Registry, and keep basic information about the project. This will preserve a record of emission reduction impacts from an early project for future consideration, if appropriate.

**Develop Comprehensive Inventory of Climate Change Reduction Programs:** Perhaps it is underway, but we have not yet seen a comprehensive inventory of the climate change reduction programs that are underway by the California Energy Commission and California Public Utilities Commission and other agencies as required by AB 32's requirements that programs be complementary and nonduplicative. There is a great deal of activity taking place at state and local agencies and among private sector companies. To meet AB 32's criteria for making sure programs are complimentary and non-duplicative, this comprehensive inventory needs to be completed.

**CARB's Regulatory Authority to Develop the State's Greenhouse Gas Reduction Plan is Experiencing Leakage:** AB 32 vested the Air Resources Board with the sole authority to oversee the state's plan to reduce greenhouse gas emissions. Over the past several months, other state agencies have begun to usurp this authority. The issue of incorporating climate change analyses and mitigation measures in CEQA documents has generated a great deal of discussion. In addition, we understand that other agencies are developing and enforcing their own climate change policies.

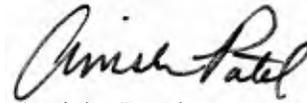
For example, the State Lands Commission is contemplating no net increases in greenhouse gas emissions in their permit process. It's not far-fetched that the Coastal Commission, local air districts, BCDC... and the state's dozens of other agencies are far behind. The problem with agencies enforcing their own adhoc climate change policies in the absence of CARB preparing its scoping plan is that the state's AB 32 policies will simply create regulatory chaos. It also places the burden of greenhouse gas emissions on new residential, commercial and industrial projects which is a strategy that is unlikely to meet AB 32's GHG emission reduction goals. California businesses already face great uncertainty as the CARB works to develop a landmark climate change plan. This uncertainty should not be further compounded by the piecemeal policies now being developed by dozens of local and state agencies. To lead the nation and the world, California needs a comprehensive plan not a patchwork of district rules and litigation settlements.

Again, thanks for the opportunity to comment.

Sincerely,



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