



January 11, 2010

Kevin Kennedy
 Assistant Executive Officer
 Office of Climate Change
 California Air Resources Board
 1001 I Street Box 2815
 Sacramento, CA 95812

RE: Public Health Input on Preliminary Draft Regulation for a California Cap and Trade Program

Dear Mr. Kennedy:

On behalf of the undersigned public health organizations, we are writing to urge you to strengthen the preliminary draft regulation (PDR) for a California cap and trade program by including significant changes that reflect public health concerns. We appreciate the efforts of cap and trade staff of the California Air Resources Board (CARB) in providing the opportunity for public input early in the process and we look forward to your responses to our recommendations.

As medical and public health organizations, we are very concerned about the potential for disproportionate health impacts and other inequities that can result from a statewide cap and trade policy. The key design features of cap and trade, specifically policies regarding the allocation and trading of allowances, investment of allowance value and the availability and use of offsets will have a great impact on the decisions made by regulated sources on whether to upgrade and clean up their operations. These decisions in turn will affect local communities and determine whether they a) experience improvements in air quality and in positive health

outcomes related to other improvements such as better job opportunities or access to green space or b) continue status quo exposures to unhealthy levels of industrial emissions and continue to have poor health outcomes generally.

AB 32 specifically requires that, prior to the inclusion of market-based mechanisms in regulation, CARB must “consider the potential for direct, indirect, and cumulative emission impacts from these mechanisms, including localized impacts in communities that are already adversely impacted by air pollution” and design the system to “prevent any increase in the emissions of toxic air contaminants or criteria air pollutants.”¹ We are concerned that these assessments of emission impacts and impacts to vulnerable communities have not yet been completed although CARB has already circulated draft regulatory language.

In order for the cap and trade program to better reflect public health priorities, we are making the following recommendations about the process of developing the cap and trade regulation and the key design features that the regulation should include:

- 1. Health impact assessment of cap and trade program must be integral to the rulemaking process and highlighted in future drafts of the regulation.** The AB32 Public Health Workgroup (headed by CARB and the California Department of Public Health) has begun a very important process to evaluate potential cap and trade program designs from a public health perspective and this process should be carefully integrated into the process of developing the regulations.

This Health Impact Assessment (HIA) should evaluate the range of health and emission benefits and impacts that will result from a cap and trade program using key design elements such as: auctioning of allowances, use of offsets inside of and outside of California, placing quantitative limits on offsets and restricting the ability of facilities located near vulnerable populations or in highly polluted areas to purchase offsets or trade allowances. The HIA should also evaluate the health benefits from investing auction revenue in a range of public health programs and air quality and greenhouse gas reduction measures.

As referenced in the PDR, CARB is also preparing a methodology to identify disadvantaged communities based on existing levels of pollution and socio-economic demographics. This is a critical tool to better understand vulnerable communities that may be disproportionately impacted by cap and trade and we look forward to reviewing this draft identification method as soon as possible.

The results of these efforts will have clear implications on the final structure of the cap and trade program. Therefore, it is critical that all stakeholders are made aware of these processes and their potential impacts, by providing information on the HIA process and the key policy issues that are being evaluated within the regulatory documents and rulemaking timeline going forward.

¹ California Health and Safety Code, Section 38570 (b) 1-2.

- 2. CARB should include a 100% auction of allowances to maximize health benefits.** Auctioning of allowances establishes a clear price for polluting our air. Continuing a system wherein covered entities are not required to pay for their emissions lessens the incentive to invest in cleaner technologies to reduce emissions and maximize air quality benefits in the near term. We support a 100% auction of allowances at the start of the program to signal the cost of pollution, spur cleaner technologies and to begin generating revenue for investment in climate change mitigation and adaptation strategies.
- 3. A significant portion of allowance value must be invested in public health infrastructure adaptation and protecting vulnerable communities from climate change.** We urge you to direct allowance value investments to mitigation and adaptation strategies, and particularly to improving public health readiness and benefitting historically disadvantaged and vulnerable communities. In order to avoid the most severe consequences of climate change, allowance value must be directed in the following ways:
- *Allowance value should be invested in building and preparing California's public health infrastructure to deal with the overwhelming impacts of climate change.* While California has established a climate adaptation plan,² the agencies tasked with carrying out the adaptation strategies lack the funds necessary to implement the recommendations. This fact is particularly true for state and local public health agencies. Therefore, we strongly urge the establishment of a public health adaptation fund.³ A fixed fraction of allowance value should be allocated to assisting health professionals in preparing for and responding to the public health impacts of climate change. Specific needs are noted within the California Climate Adaptation strategy and include:
 - Assisting with emergency preparedness
 - Communication and response plans
 - Creating tools for predicting and monitoring climate change health effects
 - Identifying and prioritizing vulnerable communities
 - Conducting climate and health research
 - Enhancing disease surveillance systems
 - Investments in healthier, sustainable community planning as envisioned by SB375
 - *Allowance value should be invested in helping disadvantaged communities.* AB32 calls for CARB to “direct public and private investment toward the most disadvantaged communities in California.”⁴ Therefore, we support a more directed use of allowance value into a Community Benefit Fund (CBF) to address the burdens faced by low-income communities and communities of color that experience disproportionate health impacts from current levels of air pollution and climate change. The CBF would provide competitive grants for projects within such communities for such strategies as reducing emissions of greenhouse gases

² California Natural Resources Agency. 2009. California Climate Change Adaptation Plan. Dec. 2, 2009.

³ The US House of Representatives passed such a provision within the American Clean Energy and Security Act of 2009 (HR 2454). Title II, Section 212 establishes a Climate Change Health Protection and Promotion Fund to prepare and respond to the impacts of climate change on public health.

⁴ CA Health and Safety Code, Section 38565.

and co-pollutants, minimizing health impacts caused by global warming, providing funding for projects that would otherwise improve health outcomes (e.g., by providing good jobs and better access to parks), and improving community emergency preparedness for extreme weather events caused by global warming.

- 4. CARB Should Establish Stricter Quantitative Limits on Offsets.** Studies have demonstrated that offsets lessen the opportunities for AB32 to deliver significant co-pollutant reductions and public health benefits to California. For example, a March 2009 UC Berkeley study concluded that the use of offsets, particularly from outside the state, in a California cap and trade program would undermine the air quality co-benefits achieved by other AB32 measures.⁵ CARB should limit the use of offsets to ten percent of the total reductions required under the cap and trade program during a compliance period. As currently proposed in the PDR, the 49% offset limit is calculated across all compliance periods, allowing access to all available offsets in the early years and establishing a system wherein sources could purchase offsets to fulfill the entirety of their emission reduction obligations under the cap and trade program until the third compliance period starting in 2018.

Allowing offsets to make up the majority (and perhaps the entirety) of compliance obligation in the early years will subject California communities to ongoing exposure to criteria and toxic air pollutants and reduce the incentive for near-term investment and technological innovation to achieve reductions in heavily polluting and fossil fuel intensive industries. This over-reliance on offsets could significantly reduce the public health and air quality benefits of the AB 32 program to California and divert investment from critical pollution control technologies.

As stated earlier, we believe the cap and trade program can be significantly strengthened through our recommendations and additional input from public health experts and organizations. It is critical that the public health implications of market mechanisms be evaluated as quickly as possible and prior to the adoption of the rule in 2010 and that the forthcoming cap and trade regulatory documents should clearly illustrate the potential for significant design changes based on the ongoing work of the Public Health Workgroup.

We also appreciate that the HIA under development will provide additional information on the health outcomes from using different design features in the cap and trade program, including different percentages of auction of allowances and offset limits, and we look forward to providing additional input as the HIA process moves forward.

We thank you again for your commitment to public health and look forward to continued opportunities to strengthen this program to the benefit of all Californians.

⁵ Roland-Holst, David. 2009. Carbon Emission Offsets and Criteria Pollutants: A California Assessment. University of California, Berkeley Center for Energy, Resources and Economic Sustainability. March 2009. http://www.ucsusa.org/assets/documents/global_warming/Offsets-and-Criteria-Pollutants.pdf

Sincerely,

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