AB 32 Implementation Group

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

June 22, 2012

The Honorable Mary Nichols
Chair, California Air Resources Board

Submitted Electronically:
http://www.arb.ca.gov/cc/capandtrade/comments.htm

RE: AB 32 Implementation Group's Comments Regarding the May 24, 2012 "Public Consultation on Investment of Cap-and-Trade Auction Proceeds"

Dear Chairwoman Nichols:

AB 32 Implementation Group is a business and taxpayer coalition working for AB 32 policies that will achieve the goals of AB 32 while protecting the economy and jobs.

An auction is not authorized and is not necessary

We believe the California Air Resources Board (CARB) lacks legislative authority to sell (auction) allowances to raise revenue. Hence there is high likelihood that a court would impose restrictions on CARB's ability to mandate participation in an auction -- from whom can revenue be raised, how much revenue can be raised, and how it can be spent. The auction could be rejected by a court simply because CARB hasn't shown in the regulatory record that revenue is needed to meet AB 32 targets. We note that experience (RECLAIM, SO2) has shown it is not necessary to auction allowances for a successful cap-and-trade program. The overall purpose of AB 32 is to reduce emissions of greenhouse gases, not to generate revenues for the state. We believe that a simple cap-and-trade program, without an auction, will provide adequate incentives for companies to reduce emissions via energy efficiency and innovations. We should note that the overall AB 32 program as developed by CARB has many other elements beyond the cap-and-trade program that will further incentivize companies to reduce emissions in many ways. An auction is not necessary to achieve the emission reduction targets of AB 32.

-- more --

<u>CARB must address potential leakage of emissions and jobs</u>

At present, no credible information exists nor have studies been conducted to determine the impact that the AB 32 program will have on leakage of emissions and jobs. For the obligated industries, the auction works directly counter to AB 32's express mandate that CARB implement a cost-effective emissions reduction program. An auction will impose enormous new costs that can't be avoided with cost-effective or technologically feasible measures and that will benefit out-of-state competitors. Yet CARB has not conducted any serious leakage analysis, in fact discussion of leakage is not scheduled until the third quarter of 2012, way too late to avoid major leakage risks.

Further we believe that leakage of jobs and future emissions is likely happening already. The state's economy is soft and manufacturing investment is declining as business and industry investors look to other states for more positive investment opportunities. Since January 2010 other states have grown manufacturing jobs 4%, yet California remains stuck at a paltry .08%. Since 2000 the state's share of new US manufacturing investment is only 1.9%, down from an average of 5.6% before 2000.

In addition to the costs to be imposed on industry that the Legislature will reap as a windfall the cap-and-trade auction, business and industry continue to pay increasing costs for other carbon programs designed to subsidize a myriad of state-mandated energy programs. Reaching AB 32 goals will be challenging enough without imposing billions of dollars in needless additional costs that will impede California's economic recovery and accelerate the decline in manufacturing.

AB 32 IG recommends that CARB take the following steps to ensure that California's cap-and-trade program is economically viable:

<u>First, immediately amend the regulation so that all industries will be allocated 100% of allowances thereby eliminating the auction.</u> This is reasonable given that there is no strategy to address leakage and job loss created by an auction. The acid rain program has proven the workability of this approach – a fact highlighted from the program's frequent citing as a model program during the debates on AB 32. CARB's overly stringent benchmarks, and the plan in 2015 to withhold and auction 25% and then 50% or more of the allowances for some industry sectors is sending the wrong message to potential investors, prospective businesses, and current business owners. The year 2015 is just around the corner for firms making decisions this year about where they will expand or invest in the future. CARB has not analyzed, nor do they have a strategy to address leakage and job loss that is probably occurring right now.

Second, update the scoping plan in 2013 as required by AB 32. Steps to be taken include:

1. Reassessment of the emissions inventory;
2. Recalculation of emissions reductions to be achieved by the scoping plan measures;
3. Adjustment of the business as usual estimate and re-set of the declining cap to meet the 2020 goal.

In conclusion, there is time to shift direction and make cap-and-trade a low cost regulation that encourages efficiency and rewards early action, as was the original purpose. But preventing damage from this flawed program will be much harder to do after the program is underway, and by that time we will have lost more manufacturing jobs and investment that we will never get back.

We look forward to working with you in the future on the above-mentioned recommendations. Should you have any questions, please feel free to contact Shelly Sullivan at (916) 858-8686. Thank you.

cc: California Air Resources Board Members
James Goldstene
Virgil Welch