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February 8, 2010

Lynn Terry, Deputy Executive Officer
California Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: January 27, 2010 Working Draft Cap-and-Trade Health Impact Assessment Framework

Dear Ms. Terry:

The California Council for Environmental and Economic Balance (CCEEB) is a non-partisan, non-profit organization of business, labor and community leaders that seeks to achieve the State's environmental goals in a manner consistent with a sound economy. On behalf of CCEEB, we want to thank the Air Resources Board (ARB) for allowing us to comment on the Working Draft Cap-and-Trade Health Impact Assessment Framework (HIA). CCEEB has several serious concerns with the January 27, 2010 HIA including: the methodologies noted in the report, the timeline to complete this work by the end of February and the potential ramifications and impact to the Cap-and-Trade program.

A Cap and Trade Program Will Allow California to Meet Its Emission Reductions at the Lowest Cost to the State's Economy

The goal of the Cap-and-Trade program envisioned in AB 32 is to reduce CO2 emissions in the most cost effective way, for the benefit of global CO2 emission reductions. Conditions placed on a Cap-and-Trade program to influence the reduction of criteria and toxic pollutants known here as "co-pollutants" on a facility-by-facility basis compromise the effectiveness of the Cap-and-Trade program, arbitrarily increases cost, and creates a significant risk of job loss and emission leakage.

Existing Regulations Address Criteria Pollutants

Criteria and toxic pollutants that comprise "co-pollutants" from stationary and mobile sources are currently regulated via a multitude of other rules adopted by ARB, local air districts and EPA. These regulations have been carefully crafted and have made California a national leader in environmental protection. These other regulations have been very effective in improving public health by targeting criteria and toxic reductions where needed. In order to provide an objective report, the HIA should include a

complete description of existing regulations governing any possible co-pollutants. If there are findings that the Cap-and-Trade program may result in potential negative public health impacts, then these potential impacts should be addressed by the existing regulations relating to the control of criteria pollutants and toxic air contaminants. If these regulations are deficient, then these regulations should be updated. A market-based compliance program to reduce CO2 emissions is not the proper regulatory vehicle to regulate criteria pollutants and toxic air contaminants.

The Use of Facility Case Studies is an Inappropriate Methodology

The use of facility case studies is not advisable for an assessment related to the AB 32 Cap-and-Trade program. AB 32, §38562 (b)(1) indicates that the proposed cap-and-trade regulations should distribute emission allowances equitably, minimize costs and maximize the total benefits to California. The Scoping Plan Resolution of December 2008 directs the assessment of adverse air impacts of the Cap-and-Trade program NOT facility-by-facility or community-by-community co-benefits. Any analysis of co-benefits must be done at the state level to conform to AB 32. The use of facility case studies focuses on fence line impacts. The focus on local facilities and implications of relating the HIA findings to these case studies inappropriately equates a single local facility's fence line impacts to community wide public health impacts. If this methodology were to give rise to a Cap-and-Trade design change option that is different from the PDR, then a complete GHG implementation impact assessment must be conducted for each such option to account for changes in total GHG reductions. The HIA's methodology ignores statewide benefits and costs.

If the methodology's reliance on facility case studies leads to limiting the options available to individual facilities to meet their obligations under the cap-and-trade program, covered entities may likely scale back their operations to meet the cap. This result will lead to reduced workforce and increased costs to consumers. AB 32 requires program alternatives to minimize leakage and costs. Any of the alternatives must meet these requirements. As stated in the HIA, increased consumer costs are detrimental to public health.

An Appropriate Evaluation Should be Based on an Objective, Quantitative Analysis

We are concerned about the lack of data to support the present analysis. The HIA appears to be based upon a set of assumptions on a facility-by-facility basis rather than on the Cap-and-Trade program as a whole. There is no quantitative data provided in the publicly released information for measuring the amounts of criteria and toxic pollutants associated with efforts undertaken to reduce CO2 emissions. Without this information it is not possible to determine the significance of any potential direct public health impact of CO2 reductions wherever they may occur. Using qualitative assumptions in place of objective quantitative data to base decisions introduces too much subjectivity and is not good public policy. Quantitative data is required in order to make informed, objective decisions regarding direct health impacts. Without this data, the potential conclusions of this effort are baseless. The assessment must be based on sufficient data to judge the magnitude, likelihood, and the relative significance of potential health impacts. The assessment must clearly acknowledge these limitations.

The Scoping Plan Already Imposes Significant Restrictions on the Cap and Trade Program

The Scoping Plan states that 80% of emission reductions should come through direct regulatory programs. These regulations are already in place or are being developed. The HIA focus detracts from this goal in favor of localized and extraneous features in the Cap-and-Trade regulation. By attempting to address all potential community impacts through Cap-and-Trade, the global and regional benefits will be further negated. Creation and limitation of facility specific allowances will have significant economic impacts on local communities.

The HIA Could Hurt the Communities it Intends to Help

Local communities with multiple capped facilities will be most impacted by facility specific allowances. The HIA does not address the increased cost and issues regarding jobs and leakage that the cap-and-trade program will create. Low income and disadvantaged communities will be the most impacted and disproportionately impacted by these economic costs. The economic costs to these impacted communities would be detrimental to the area and those who reside and work in these communities. The assumptions in the HIA methodology also discourage communities from achieving SB 375 (Steinberg, Statutes 2008, Chapter 728) goals by limiting the production potential of facilities within a community and therefore limiting the potential for jobs. The societal impact of limiting job creation and production in a community through additional restrictions on the capped facilities would be harmful to the most vulnerable communities. The micro-cap alluded to in the HIA report negates the macro-benefits of a Cap-and-Trade program.

Direct vs. Indirect Impacts

When addressing potential health impacts there is a need to call out direct and indirect public health impacts and prioritize them for resource allocation. Of the seven "health determinants" under Potential Public Health Impacts of the Proposed Cap-and-Trade Regulation section (a), three are, at best, indirect effects: consumer economic impacts, employment, and visual impact. However, the framework does not identify them as such, and does not make the case of why and how these are "health impacts." It is presumptive to assume that diabetes and obesity are potential health outcomes of a potential indirect impact. There is no stated or obvious causal link between Cap-and-Trade, potential health effects and the indirect impacts (consumer economics, employment, and visual impacts). The methodology needs to include an explicit link or else there appears to be an overreaching of the purpose of the HIA.

This Process is Important and Should Not Be Rushed

CCEEB is also concerned with the short timeline for the development of this report. Additional time is needed to develop appropriate databases and protocols for their application and determination of level of significance. In less than one month staff will not be able to receive meaningful public comments and properly consider all the stakeholder comments and their implications. Furthermore, CCEEB is concerned by the lack of representation from all affected stakeholders on the workgroup. As comprised, regulated entities are not represented in the

workgroup, which has led to incomplete consideration of their views. Additionally, the data and conclusions should be peer reviewed as many of the assumptions and datasets are qualitative. To ensure meaningful public participation, documents and presentations for workshops must be provided at least 1week ahead of time. The public must be provided at least a 2 – 4 week comment period for documents, depending on their complexity. The implications of this effort on a cap-and-trade program could be enormous and should not be rushed in order to meet an arbitrary deadline.

Baseline Assumptions Should be Consistent

The assumptions in the methodology that none of the allowances are invested in projects, programs or communities to decrease pollution, does not seem consistent with the PDR or Economic and Allocation Advisory Committee (EAAC). The baseline should reflect conditions internally consistent. The PDR identifies command and control regulations that will account for approximately 80% of the reductions. The Public Health Workgroup recommended baseline uses EAAC report for items such as carbon price, allocation strategy, and amounts of proceed, but ignores recommendations such as contingency funds to be devoted to any communities experiencing increased exposure to co-pollutant or financing of public and private investments. Additionally, common use of the term "baseline" typically refers to existing conditions which is compared to conditions after the regulation is implemented. To prevent giving any wrong impression about the results of the HIA, the PDR should be compared to current conditions.

In conclusion, the HIA does not consider the current regulatory structure of criteria pollutant and air toxic contaminant control. The lack of program wide quantitative datasets and its current focus on individual facilities will yield conclusions that are unsubstantiated conjecture instead of solid, fact based conclusions. We are concerned that this approach will ultimately compromise the Cap-and-Trade program. An effective market-based compliance regulation should be simple and focus on a cap, distribution of allowances, creation and trading of offsets. Additional requirements that do not focus on macroeconomics and macro-emission reductions will constrain the Cap-and-Trade program and create an ineffective or unworkable program.

Again CCEEB would like to thank you for this opportunity to comment on the Working Draft Cap-and-Trade Health Impact Assessment Framework and we look forward to playing an integral role in the development of California's Cap-and-Trade Program. If there are any questions please call Robert Lucas at (916) 444-7337.

Sincerely,

Robert W. Lucas

Gerald D. Secundy

cc: Dan Pellissier, Deputy Cabinet Secretary, Office of the Governor
Cindy Tuck, Undersecretary for California Environmental Protection Agency
Mary Nichols, Chair and Members of California Air Resources Board
James Goldstene, Executive Officer, California Air Resources Board
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