



**Comments of the Natural Resources Defense Council on the Economic and Technology
Advancement Advisory Committee (ETAAC) December 21, 2007 Draft Report**
January 18, 2007

On behalf of the Natural Resources Defense Council (NRDC), thank you for the opportunity to offer comments on the second draft ETAAC report, which was released for public comment on December 21, 2007. We appreciate all of your hard work in putting together these draft recommendations to help inform the California Air Resources Board's (CARB) process to implement AB 32. Further, we appreciate your efforts to ensure that the state's implementation of AB 32 meets the laws multiple goals, including spurring innovation and fostering the development of new technologies.

As we noted in our previous comments submitted on December 10, 2007, we strongly support the draft ETAAC report's recommendation that it is important to place a price on greenhouse gas (GHG) emissions, *and* that complementary policies, particularly performance-based programs, will be needed "to spur innovation, overcome traditional market barriers, and address distributional impacts."¹

NRDC welcomes many of the changes that have been made to the report since the November 15, 2007 draft report. We are especially appreciative and enthusiastic about the new additions to the Waste Reduction section. We strongly support these new sections' emphases on recycling and composting as providing superior carbon benefits, and their recommendations for increasing those approaches.

While we are generally supportive of many of the recommendations in the ETAAC draft report, we remain concerned with several sections of the report. These concerns are described in the sections below. We incorporate by reference, but do not repeat, our concerns with some sections and our recommendations for improvements provided in our December 10, 2007 comments. Additionally, we oppose the addition of the new section, "Customer Choice of Electric Service Provider," which makes the baseless assertion that direct access will result in reduced GHG emissions.

¹ December 21, 2007 ETAAC draft report, p. 1-3.

Section 3.V.I. Create Markets for Green Fuels

The December 21, 2007 draft has improved to the extent that it now recognizes that policies should ensure that air and water pollution are not exacerbated by the LCFS. Unfortunately, it still does not recognize the importance of addressing other potential environmental harm that could result from biomass extraction – such as the destruction of native, critically imperiled, imperiled or rare habitat; wetlands; and old-growth/late-successional forests. These sensitive ecosystems, as well as our national forests, must be protected from biomass production or we will simply be trading one environmental harm for another.

The LCFS should be designed so that it not only encourages technologies that drive down GHG emissions, but safeguards California’s air, water and critical habitat values as well. While a voluntary or mandatory Green Fuels Labeling Standard is a step in the right direction, and provides useful information to the consumer, we cannot rely only on consumer choice to protect the health of our state’s resources. As stated in our previous comments, California needs to establish environmental safeguards to ensure that biofuels production does not create perverse environmental consequences for our public lands, native forests or unique ecological communities. Safeguards should prevent the conversion of native forests and prairies and the drainage of wetlands for biofuel production; and the extraction of biomass from national forests, areas designated by the California Natural Heritage Program as critically imperiled, imperiled, or rare at a global or state level, and old-growth and late successional forests.

Last month, Congress passed, and the President signed, the Energy Bill which included essential environmental safeguards for biofuel development. If California is to retain its leadership role in the fight against global warming, it should not do anything less.

Section 4.II.C. Competitive Renewable Energy Zones

The latest draft of this section is much improved over the earlier version. In particular, we appreciate that it eliminates references to “streamlining” environmental reviews and “expedited” production – i.e., within one year – of environmental documents. However, it does opine that “possible solutions” include a “new siting process [that] will create common environmental documents and consolidated state and federal permits within one year.” We raised serious concerns about the imposition of an arbitrary one year timeframe for the completion of environmental reviews and issuance of permits in our prior comments. While we support a coordinated review and permitting process, we cannot support this timeframe for the reasons previously advanced.

Section 4.II.E. Customer Choice of Electric Service Provider

This new section, encouraging the CPUC to “to examine how expanding direct access opportunities could affect our goals to increase renewable energy, energy efficiency and other GHG goals, and if adopted, determine how best to further these goals through direct access,” was introduced only in the most recent December 21, 2007 draft of the ETAAC report. Accordingly, NRDC is concerned that neither the committee nor the stakeholders have had sufficient time to

consider whether or how ETAAC should address the complicated and controversial issue of direct access.

As the draft section notes, the CPUC is currently conducting a proceeding to investigate “whether, when, or how direct access should be restored.” (R. 07-05-025.) Importantly, with respect to this committee’s purpose of furthering the goals of AB 32, NRDC is unaware of any evidence that direct access will result in reduced GHG emissions, or specifically, achieve the 33% or 50% renewables targets claimed.² In fact, NRDC is quite concerned that direct access *could increase* GHG emissions or at least make it more difficult to achieve targeted levels.

While NRDC agrees that it is important to address potential GHG emission impacts when considering whether to restore direct access, NRDC cautions against an overly optimistic view of the capacity of direct access to reduce GHG emissions. Given the controversy surrounding this issue and the limited timeframe within which ETAAC may consider it, NRDC recommends that ETAAC omit this section from its report or, at a minimum, emphasize that GHG emission reductions are, at best, quite uncertain.

Section 4.IV.O Waste Conversion Evaluation

While NRDC is very supportive of the new additions to the Waste Reduction section on recycling and composting, we are concerned that this section, advocating for “policies to encourage the development and implementation of waste conversion technologies,” has not been modified.

This strategy is incompatible with the emphasis on recycling and composting earlier in the section. “Waste conversion” is a blanket term covering some widely different and largely underdeveloped technologies for “converting” waste to energy. These technologies range from traditional incineration to gasification and other non-combustion technologies to anaerobic composting. Many of these technologies are largely unproven and frequently compete with or undermine recycling efforts for paper and other combustible materials.

According to the EPA, increasing recycling saves energy and reduces global warming emissions compared to many of these technologies. While we are open to the possibility of a specific technology developing that may help deal with non-recyclable or non-compostable wastes, recycling, composting, and waste reduction are strongly preferable methods of handling waste.

Sections 4 & 5: Responsible Parties

NRDC notes that additional entities should be listed as responsible parties for several of the sections related to energy. These include:

4.II.B. Rebates for Load Reduction

CPUC should be listed as a responsible party.

² December 21, 2007 ETAAC draft report, p. 4-7.

4.III.F. Building Efficiency Programs and Incentives

CPUC, utilities, and local governments should all be added as responsible parties

4.III.H. Industry/Government Partnerships to Reduce Industrial Energy Intensity

CPUC and utilities should be added as responsible parties

5.II.A. Aggressive LED Energy Efficiency Programs

Utilities should be a responsible party.

Section 7. Forestry Sector

The forestry chapter in the December 21st draft report is substantially improved from the previous draft. We appreciate the effort to respond to comments and incorporate suggestions from NRDC and other stakeholders. However, the forestry chapter continues to rely on two key flawed assumptions.

First, the chapter is focused nearly entirely on emissions from in-state forestlands and fails to address the demand for forest products. As noted in our comments on the previous draft, AB32 implementation needs to account for all of the emissions associated with consumption of forest products by California's economy. The current draft fails to account for all forest sector emissions, including imported wood products, and excludes demand-side measures, such as recycling and wood use efficiency. A forest sector strategy that focuses only on net sequestration on in-state forestlands will not accurately reflect total sectoral emissions and could lead to increased import of wood products, to the detriment of California's forest products industry and GHG footprint.

Second, the draft forestry chapter continues to advance forest thinning as an emission reduction strategy. However, as discussed in our prior comments, the notion that forest thinning, as practiced over the past decades, reduces net GHG emissions is not supported by the evidence. Until and unless emissions reductions from forest thinning can be scientifically demonstrated and the impacts measured using credible protocols, forest thinning and/or fuels reduction should not be considered an acceptable emissions reduction measure for AB32. We're particularly concerned to see the questions we raised about the climate mitigation efficacy of forest thinning dismissed as "beyond the scope of this chapter" (p. 7-3). The speculative nature of forest thinning's carbon benefits means that it flunks basic criteria that any mitigation strategy must meet to qualify for consideration under AB32, as articulated by ETAAC itself: "offsets must be real, additional, permanent, enforceable, predictable and transparent" (p. 7-5).

Without repeating our prior comments at length, we stress the problematic nature of two specific passages. We are concerned about the continued discussion of green labeling in connection with federal lands. Unfortunately, the U.S. Forest Service's track record on legal compliance in recent years stands as a barrier to environmental endorsements. No other federal agency has been remotely as often overturned for violating environmental rules in some time. We are also concerned that claimed environmental co-benefits from forest thinning are not supportable, as a general matter. Substantial thinning in the immediate vicinity of houses, where open conditions can readily be maintained by homeowners has proven very effective at reducing structure ignitions, particularly when paired with fire-resistant building materials. Otherwise, empirical

evidence for claimed co-benefits, while not non-existent, remains too thin and mixed for CARB to rely on.

Again, we appreciate the substantial progress that has been made between the first draft and this one, in making the forestry section useful, and encourage ETAAC to follow through to improve these additional problem areas.

Appendix III: Inventory of Existing State Funding Sources to Reduce GHG Emissions

Appendix III's inventory of existing state programs is a useful reference for entities and individuals seeking to take early action to reduce their GHG emissions. We urge ETAAC to complete the inventory, which is currently missing some of the state's programs that offer the most significant opportunities for reducing emissions, and highlight these key opportunities for voluntary early action. In particular, NRDC urges ETAAC to include in Appendix III the following investor-owned utility (IOU), publicly-owned utility (POU), and California Public Utilities Commission (CPUC) programs:

- *IOU energy efficiency programs.* The IOUs administer programs under the oversight of the CPUC that provide information, incentives, and technical assistance to help their customers use energy more efficiently and to reduce GHG emissions. The CPUC authorized a total program budget of almost \$2 billion for all IOUs combined during the 2006-2008 program cycle.³ In addition, the CPUC authorized approximately \$163 million in funding for energy efficiency evaluation, measurement and verification (EM&V) activities to ensure that the energy savings during the 2006-2008 cycle are real and verified.⁴
- *POU energy efficiency programs.* The POUs invested \$54 million in similar efficiency programs in during fiscal year 2005-06, and have plans to significantly increase these investments.⁵
- *IOU low-income energy efficiency (LIEE) programs.* The IOUs also administer, under the oversight of the CPUC, programs specifically targeted to help low-income customers become more energy efficient and lower their energy bills. The CPUC has authorized the utilities to spend up to \$317 million on LIEE programs during 2007 and 2008.⁶
- *POU low-income energy efficiency programs.* Like IOUs, many POUs offer energy efficiency programs targeted to low-income customers.⁷

³ \$1,968 million. A.05-06-004, Decision 05-09-043 September 22, 2005, "Interim Opinion: Energy Efficiency Portfolio Plans and Program Funding Levels for 2006-2008 – Phase 1 Issues," p. 4.

⁴ A.05-06-004, Decision 05-11-011 November 18, 2005, "Interim Opinion: Evaluation, Measurement And Verification Funding for the 2006-2008 Program Cycle And Related Issues," p. 5.

⁵ California Municipal Utilities Association, "Energy Efficiency in California's Public Power Sector: A Status Report" (December 2006), p. vi, available at <http://www.ncpa.com/images/stories/SB1037%20Report%20Final%20%281206%29.pdf>.

⁶ R.07-01-042, Decision 07-12-051 December 20, 2007, "Decision Providing Direction for Low-Income Energy Efficiency Policy Objectives, Program Goals, Strategic Planning and the 2009-2011 Program Portfolio and Addressing Renter Access and Assembly Bill 2140 Implementation," p. 9.

⁷ California Municipal Utilities Association, "Energy Efficiency in California's Public Power Sector: A Status Report" (December 2006), *passim*, available at <http://www.ncpa.com/images/stories/SB1037%20Report%20Final%20%281206%29.pdf>.

- *Self Generation Incentive Program (SGIP)*. The CPUC oversees the SGIP, which provide incentives for distributed generation systems up to 5 MW. Eligible technologies include microturbines, fuel cells, and wind turbines. “The SGIP has been operational since July 2001 and represents the single largest DG incentive program in the country. As of December 31, 2006, over \$822 million in incentives had been paid out through the SGIP, resulting in the installation of nearly 947 DG projects representing approximately 233 megawatts (MW) of rebated capacity.”⁸

Additionally, while the description of the Public Interest Energy Research (PIER) program in Appendix III accurately includes natural gas research, it does not include the funding for natural gas. PIER’s total budget is approximately \$80 million annually.⁹ This includes approximately \$62 million “collected annually from investor-owned utility ratepayers for ‘public interest’ energy RD&D efforts not adequately provided by competitive and regulated markets,”¹⁰ and up to \$18 million for natural gas efficiency research.¹¹

Conclusion

Thank you for the opportunity to provide comments on the draft ETAAC report. We urge you to modify the report consistent with the above recommendations. We appreciate the ETAAC’s hard work to help make AB 32 a success.

⁸ “CPUC Self-Generation Incentive Program Sixth Year Impact Evaluation Draft Report,” p. 2-2, available at <http://ftp.cpuc.ca.gov/puc/energy/electric/6thyrimpactevaluationdrrept.pdf>.

⁹ PIER 2006 Annual Report, “In the Public Interest: Developing Affordable, Clean, and Smart Energy for 21st Century California,” p. 6, available at <http://www.energy.ca.gov/2007publications/CEC-500-2007-020/CEC-500-2007-020-F.PDF>.

¹⁰ <http://www.energy.ca.gov/pier/about.html>.

¹¹ “AB 1002 (Chapter 932, Statutes of 2000) granted the CPUC the authority and discretion to determine the appropriate funding levels for natural gas, energy efficiency, and public interest RD&D activities. On August 19, 2004, the CPUC adopted Decision 04-08-010 that established the funding level for natural gas public interest RD&D, identified the Energy Commission as the administrator of the natural gas funds, and established the administrator’s responsibilities.” PIER 2006 Annual Report, *supra*, p. 3, available at <http://www.energy.ca.gov/2007publications/CEC-500-2007-020/CEC-500-2007-020-F.PDF>.