



Western States Petroleum Association
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Catherine H. Reheis-Boyd
Chief Operating Officer and Chief of Staff

May 30, 2008

Mr. Kevin Kennedy, Chief
Program Evaluation Branch
Office of Climate Change
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Subject: **AB 32 Implementation – Scoping Plan Scenarios**

Dear Mr. Kennedy,

The Western States Petroleum Association (WSPA) is pleased to submit the following comments regarding AB 32 implementation Scoping Plan scenarios as discussed at the May 19, 2008 workshop. WSPA is a non-profit trade association representing twenty-six companies that explore for, produce, refine, transport and market petroleum, petroleum products and natural gas in six western states – California, Arizona, Nevada, Oregon, Washington and Hawaii.

WSPA member companies own and operate various types of facilities (e.g., oil and gas production properties, refineries, marketing terminals, pipelines, retail gasoline outlets, etc.) that will all be impacted by the implementation of AB 32.

At the April 25, 2008 CARB workshop, you and your staff very accurately and comprehensively outlined and discussed all the competing evaluation criteria that are required by AB 32 as you develop the Scoping Plan. At the May 19, 2008 workshop, you outlined the probable approach for the Scoping Plan -- achieve the 1990 target 175 MMTCO₂e in emission reductions via core measures consisting of traditional regulatory approaches (60% - 105 MMTCO₂e); the remaining amount (40% - 70 MMTCO₂e), would be from a menu of other options that may include any or a combination of the following:

- 1) Additional traditional regulatory approaches such as command and control, performance standards, etc.,
- 2) Cap-and-trade, and/or
- 3) Carbon Fees

Our assessment of the presentations and discussion at the May 19 workshop however left us very concerned that the Scoping Plan, along with the technical and economic evaluations as you outlined, will not meet all the technical, cost-effective, economic and non-economic requirements in AB 32 as outlined in the April 25 workshop.

For example, CARB will have a number of critical choices in developing and implementing the Scoping Plan under AB 32. Most notably, what is the right combination or mix of the various options under consideration? Likewise, to what extent will allowances be distributed by administrative allocation or auction? Finally, to what extent will flexible compliance mechanisms allow regulated entities to minimize their cost of compliance and ultimately, the costs to consumers and the economy?

Therefore, we urge CARB to provide as much detail on the emission benefits and cost-effectiveness of the core measures and the other options seriously considered. Further, we urge that in addition to the general cost-effective and non-economic considerations required under the statute, your evaluation of the various critical program design options should also be set in the context of cost to the consumers and risks to consumers that would arise if California's energy supply and particularly if transportation fuel supplies are impaired.

We submit the following recommendations as a way to address some of the deficiencies we see in the current CARB approach for the Scoping Plan.

Use market mechanisms such as well designed cap-and-trade

WSPA believes that key to the successful implementation of AB 32 is achieving emissions reduction goals as efficiently and as cost-effectively as possible. No single mechanism is likely to deliver the necessary breadth of reduction that is needed. For significant point sources, we support a broad market approach, such as a cap-and-trade mechanism, because experience has shown that well designed cap-and-trade programs can achieve emission reductions at dramatically lower cost than conventional regulation. For example, cap-and-trade has successfully cut acid rain by more than half in the United States at an annual savings of \$1 billion – savings that show up in monthly electricity bills. Similarly, a cap-and-trade program was used successfully in the 1980s to phase out leaded gasoline more quickly than anyone predicted, while saving \$250 million a year.

We urge that CARB's Scoping Plan embrace the use market mechanisms, such as a well designed cap-and-trade program, for as many sources of GHG emissions as is administratively feasible. We understand that cap-and-trade is a "non-traditional," not a "command and control" regulatory option that may give you and other stakeholders concerns with enforceability. However, we are committed to work with CARB to ensure the cap-and-trade program, if adopted, provides real, verifiable and enforceable regulations and emission reductions. We believe the recently adopted mandatory reporting regulations are just the first step to assuring a cap-and-trade program can achieve real, verifiable and enforceable emission reductions.

For other types of sources with different characteristics, such sources as where price may not be sufficient to deliver a reduction response or the number of sources make administrative cost exceedingly high, a different control mechanism may be appropriate. For example, traditional efficiency standards would be more appropriate for sources such as new buildings, appliances etc.

Core measures and level of stringency

The stringency of core emission reductions measures should be limited to those that are technically feasible and cost-effective. Further, core measures or other GHG emission control measures applied using a traditional regulatory scheme should not cover the same GHG emissions that are captured under the cap-and-trade program (i.e., don't double regulate).

Broad use of offsets is critical to a well designed cap-and-trade program

In your March 17, 2008 workshop on scenario modeling, it was highlighted that offsets would not be modeled in your initial scenario analysis. At your May 19 workshop it was further highlighted that the bulk of the economic analysis will occur after the Scoping Plan is released. WSPA has serious concerns with this approach to policy development.

If offsets are not part of the scenario analysis, how will their benefit be included in the economic analysis? WSPA believes that the broad use of offsets is a critical component of a well designed cap-and-trade program, providing the opportunity for cost effective reductions and enhancing linkage with other GHG reduction systems, especially a federal program when one is established.

WSPA urges CARB to include in its scenario analysis the evaluation of the broad use of global offsets – as part of the core measures, cap-and-trade and/or other command and control options. Further, WSPA urges CARB to include in the Scoping Plan details on where and how offsets will be allowed in the California program – that offsets be part of the core measures, cap and trade and/or other command and control options and be applicable to all portions of the program including the core measures, any additional command and control options, and any market mechanisms.

Carbon Fees

It is WSPA's position that AB 32 does not provide CARB with the authority to impose carbon fees beyond those necessary to cover the administrative costs of the program. WSPA believes that use of a carbon fee as outlined in the May 19 Workshop likely requires new legislation to grant CARB authority to assess a carbon tax and for CARB to allocate/distribute those funds generated by the tax.

Assess policy's impact on the availability of adequate, reliable and affordable energy

CARB presentations have reinforced the need for fuel "diversity." Though a laudable aspiration, WSPA is concerned that the analysis does not effectively consider energy supply, especially for transportation fuels. Economic and energy policy experts agree that adequate, reliable and affordable energy supply is critical for a robust economy. We therefore urge CARB to include in its economic impact and alternative/complimentary policies analysis an assessment of each policy's impact on the availability of an adequate, reliable and affordable energy supply.

AB 32 requires CARB to consult with the California Energy Commission on all elements of its plan that pertain to energy related matters including but not limited the provision of petroleum refining and statewide fuel supplies.¹ We expect that your staff will consult with the CEC to understand the current transportation fuel supply issues facing California and evaluate the program design options with appropriate consideration for potential transportation fuel supply impacts.

WSPA agrees with economic experts that a market-based program provides incentives for regulated entities to reduce emissions beyond required levels, and encourages participation by those outside of the program. WSPA further believes that direct command and control regulation of facilities, in lieu of or in addition to a market program, is the least cost-effective way to reduce GHG emissions.

We urge that your economic analysis evaluate the economic impacts of the major direct command and control complimentary options you may be considering, and provide an assessment of those impacts

¹ Health & Safety Code § 38561(a)

on the availability of adequate, reliable and affordable energy supply. We also urge that a report of this consultation be made public.

Assess leakage implications of policy options

CARB's approach to the issue of leakage was not addressed in May 19 Workshop. Further, we do not believe CARB's approach to address leakage has been outlined in any of the previous Scoping Plan Workshops. Leakage of GHG emissions and jobs outside of CA must be minimized if the emission reduction goals of AB 32 are to be realized in a manner that does not damage the California economy. Overly onerous command and control policies will result in higher than desirable implementation costs and exacerbate the leakage of jobs and emissions. We urge CARB to consider such implications in the various policy design options and as part of the evaluation criteria for the Scoping Plan.

Stimulate innovation and investment

WSPA has long emphasized that AB 32 needs to be implemented in a way that achieves real and quantifiable emission reductions in a fair and equitable manner, stimulates innovation and investment, and protects California's economy and its citizens. We urge that CARB specifically address the following in the Scoping Plan:

- **Carbon Capture and Storage (CCS) Projects**

CARB should provide leadership for:

- 1) prompt development of CCS regulations,
- 2) streamlining of CCS project permitting,
- 3) public acceptance of CCS, and
- 4) aggressive involvement in facilitating CCS projects (connecting carbon sources with carbon storage opportunities).

- **Combined Heat and Power (CHP) Cogeneration Projects**

CARB should provide leadership in eliminating barriers to bringing CHP electricity to market at competitive prices and in streamlining CHP project permitting.

- **Other Energy Efficiency Projects**

CARB should streamline permitting of efficiency projects and ensure that early action is not penalized.

Scoping Plan and implementing regulations must be understandable and practical

WSPA believes that CARB must design the implementation of AB 32 to be as simple and transparent as possible. The Scoping Plan and its implementing regulations should be easy to understand and administer and most importantly, provide a clear means for regulated entities to demonstrate compliance. As such, a reasonable implementation timeline and process, with frequent opportunities (milestones) to check progress and impacts, is critical.

Linkage to other programs, especially a federal program when one is established

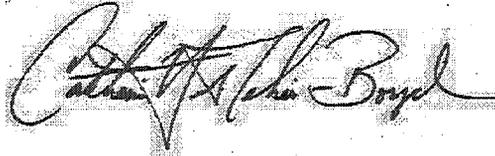
WSPA believes the Scoping Plan must describe how California's program will link, merge or otherwise work with other programs, such as international carbon markets, the Western Climate Initiative and the expected federal program, if and when such programs are established. It has been California's stated goal to lead the world to a lower carbon future, but this cannot be done in a vacuum.

California can only lead if it is willing to be fully linked to international carbon markets and other regional, federal and international carbon reduction programs. The Scoping Plan should delineate in detail how this will occur, identifying program elements, their interface with other regional or federal programs, and include a discussion of those elements that would be subsumed or eliminated when, for example, the WCI or federal programs become a reality.

To lead, California's program must be cost-effective, practical, technically feasible, and have minimal impact on energy supply and the state's economy. Only such a program will provide the world with the confidence that is needed to follow California.

Thank you for considering our comments. If there are any questions, please do not hesitate to contact me at (916) 498-7752.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cathy Boyd". The signature is written in dark ink and is positioned below the word "Sincerely,".

cc: Linda Adams
Cindy Tuck
Mary Nichols
CARB Board Members
Chuck Shulock
Edie Chang