

Summary of comments: Voluntary Early Actions Draft Policy Statement

Chuck White Waste Management

WM is requesting that the ARB consider two changes to the proposed policy:

- To the maximum extent feasible, credits or offsets for voluntary early actions that are real, permanent, quantifiable, verifiable and enforceable will be encouraged to be documented as far back as possible but at least as far back as the 1990 base year;

WM is requesting that the policy be modified to encourage the documentation of historical voluntary early actions at least as far back as the 1990 base year. Any entity that took VEA after 1990 ought to be eligible for GHG reduction credits or offsets provided they meet the other criteria of the policy.

- In addition to credits or offsets, recognition will be given for reasonably documented early actions that are real, permanent and that can be reasonably estimated, but for which sufficiently detailed quantifiable, verifiable or enforceable documentation is not available.

WM has long made the argument that there may be many actions, voluntary or otherwise that have been taken previously, but for which adequate documentation to generate potentially marketable offsets or credits is simply not available. However, to the extent some reasonable documentation exists, then "recognition" should be provided for these activities. "Recognition" would not be the same as a potentially marketable "credits" or "offsets", but would be a means for the ARB to communicate to the general public its recognition of early actions measures that have been taken historically to reduce GHG emissions.

We strongly recommend that the ARB develop an Early Action Recognition Program that will recognize individual entities or industrial sectors that have made significant real GHG reduction progress -- regardless of whether the data is sufficiently quantifiable, verifiable, or enforceable to generate saleable credits or offsets.

Kenneth W. Mayes Jr.

Mr. Mayes believes that it is important to include verbiage that indicates that the science of impact of carbon emissions is in flux and will continue to be in flux for a long time. We should build upon technologies that we understand and are proven, especially those that improve the efficiency of carbon emissions and don't cause environmental damage, and avoid those things that may have a negative effect, e.g. the wholesale replacement of gasoline with ethanol. In addition to producing more total moles of GHGs than gasoline (water vapor, CO₂, and NO₂) ethanol causes birth defects and increases the volume of historic air pollutants like NO_x.

Devra Wang (NRDC); Bill Magavern (Sierra Club Calif.); Bonnie Holmes-Gen (American Lung Assoc.); Derek Walker (Env. Defense)

One of the primary sources of uncertainty that may be hindering VEA is the uncertainty over how allowances will be distributed in a cap and trade system. An early statement that CARB will not grandfather allowances would be the most effective way to encourage voluntary early action.

They offer two modifications to the document:

- The statement should encourage VEA, not simply voluntary actions. The statement does a good job throughout most of the document emphasizing VEA, however, they urge CARB to revise the bullet providing the Board's direction to staff to read: "Encourage and reward VEA of greenhouse gas emissions."
- They are happy that the proposed policy statement does not prejudge whether any "credits or offsets" will be provided for voluntary early actions. The terms "additional" or "surplus" should be added to the list of criteria.

**Allen J. Dusault
Sustainable Conservation**

There is one important issue that seems to be overlooked in the voluntary policy statement. Getting projects approved by the regulatory agencies (he is talking specifically about his experience with the agricultural sector) seems to be a big challenge. Not only can projects be difficult to get approved but some existing facilities that reduce GHG emissions are being forced to shut down by regulators for reasons that demonstrate a broken regulatory logic. He points specifically to a manure composting facility, and the challenges associated with stationary source air quality regulations.

The ultimate problem is that our regulatory structure is indifferent to net environmental benefits. Companies with new GHG technologies that significantly reduce GHG emissions are walking away from California because of their experience with the agencies. And many of the facilities who would otherwise adopt these technologies and practices are taking note and not pursuing projects.

**Rob Neenan
California League of Food Processors**

The Draft Policy Statement indicates that ARB intends to develop specific provisions in the Scoping Plan to encourage and reward voluntary early reductions and ensure that companies are not disadvantaged because they have taken early action. CLFP strongly supports these objectives as they will be necessary to achieve rapid and significant reductions in greenhouse gas emissions and to ensure a level playing field for the entire business community.

- ARB should credit both "prior action" and "early action." In addition to credit for "early action" (measures undertaken between 2007 and 2012), it is very important that ARB allow firms to obtain direct credit for all of the "prior actions" taken to reduce their greenhouse gas emissions from 1990 to 2007.

- CLFP contends that accounting for prior actions will not place an unreasonable administrative burden on ARB if simple energy intensity measures are employed.
- ARB Should Act Soon to Provide Regulatory Certainty
- ARB must establish clear and consistent standards to be used by industry to document early reductions. Further, if simple energy intensity performance metrics are employed CLFP believes that claims for early action reductions can be accurately and completely reported without the use of third party verifiers.

**Jerry Frost
Kern Oil & Refining Co.**

Kern believes it is not only important to encourage early voluntary Greenhouse Gas (GHG) reductions, but it is equally important to recognize that certain sectors, such as the refinery sector, have made early actions in achieving reductions in Low Carbon Fuel Standards (LCFS) and have effectively made significant reductions in ozone precursors by having voluntarily committed to upgrading refinery processes to achieve mandated Reformulated Phase 3 Gasoline standards and Ultra Low Sulfur Diesel (ULSD standards). ARB should recognize refiners have committed millions of dollars in plant upgrades to produce cleaner burning fuels. ARB should also recognize and take into consideration the difficulties associated with “conflicting regulations.”

Kern recommends ARB add a bullet on page two of the draft “Policy Statement on Voluntary Early Actions to Reduce Greenhouse Gas Emission”, as follows:

- § Ensure that companies are not penalized for GHG emissions increases due to the addition or modification of equipment required to meet state or federal mandated reformulated fuel mandates; and reward those companies with credits or offsets resulting from GHG reductions achieved through the market use of the cleaner burning reformulated fuels each facility produces.

**Dorothy Rothrock, VP Gov't Relations
California Manufacturers & Technology Association**

In the second paragraph CMTA believe that there is no justification to impose an equal percentage reduction requirement on companies that have different histories for energy efficiency improvements, emission reductions, etc. They say that the phrase "to the extent possible" just adds uncertainty where the purpose is to achieve some clarity.

In the third paragraph the phrase "to the extent feasible" undermines the Board's intention to create more certainty for companies about the value of emission reductions prior to full implementation.

The statement that suggests that CARB may not allow voluntary early reductions to qualify for "credits or offsets" should be deleted. An alternative third bullet could provide that all voluntary early reductions will be fully credited by CARB if such reductions meet criteria required for market credit when the market is developed, or if they meet criteria for regulatory compliance when regulations are adopted.

Anthony Chavez
Weyerhaeuser Company

Weyerhaeuser Company proposes that ARB select an agreed upon starting date (ie: 1990) and until a mandatory program comes into force (January 1, 2012) credit should be awarded for any GHG reduction activity. The entity requesting early action credit should be required to demonstrate the eligibility for the credit, which could be granted to those who can demonstrate a change from the "early" start, or baseline date, and how there was adherence to established GHG measurement and accounting protocols and methodologies. Third party verification of such "claims" would be reasonable.

John Busterud
Pacific Gas and Electric

PG&E proposes a "banking" mechanism of voluntary early reductions undertaken prior to 2012.

The language in the Policy Statement that states "no guarantees [can be made] about how voluntary early actions will be recognized" until the Scoping Plan and implementing regulations are finalized, may cause project sponsors to postpone or delay certain mitigation measures and initiatives. Therefore, CARB should include in the Policy Statement their intent to create an emissions reductions banking system that will enable entities to develop verifiable emission reduction projects and bank the reductions from those projects prior to 2012.

In the Policy Statement ARB should state the intention of allowing entities to bank GHG credits using recognized protocols and convene workshops soon to develop this program.

John Pastore
Southern California Alliance of Publically Owned Treatment Works

SCAP is concerned that the assurances provided in the policy statement do not go far enough in protecting the voluntary early reductions generated by local governments or by industry, resulting in them having to re-spend public funds to achieve targeted emissions reductions. Words in the policy statement, such as "*to the extent possible*," and "*no guarantees*," and "*to the extent feasible*," do not provide the incentives and jump starting that they need to continue with any early voluntary reduction of GHG emissions.

There are additional concerns with the statements that reductions generated under VEA programs would constitute fungible credits under a “cap and trade” program. They believe that ARB must assure that the early action credits generated are saleable in a recognized offset market.

SCAP also noted that ARB’s draft Policy Statement should address how reduction protocols developed under VEA programs will be accepted by CCAR. The absence of this assurance further discourages project proponents from moving forward early on because of the possibility of having to repeat the quantification/verification process with another entity.

**Norman Pederson
SCPPA**

SCPPA supports recognition of early actions that are undertaken during the five year period 2007-2011 that leads up to the implementation of AB 32 regulations in 2012.

SCPPA believes that no protocol for recognizing “early actions” should permit recognition of existing nuclear or large hydroelectric projects as constituting “emission reduction actions taken on a voluntary basis” to meet GHG reduction objectives. If any date earlier than January 1, 2007, were to be considered, there should be a specific provision that *precludes* existing nuclear projects or large hydroelectric projects from constituting “emissions reduction actions taken on a voluntary action” to meet GHG reduction goals.

SCPPA also supports the development of reporting protocols that would permit the quantification and certification of emissions reduction actions taken between 2007 and 2012.

California Council for Environmental and Economic Balance (CEEBC)

CEEBC recommends that the Policy Statement be extended to include a Statement of Intent that ARB will adopt and implement quantification methodologies that establish a baseline threshold that a voluntary early action must meet to establish their reductions.

CEEBC recommends that staff request recommendations for such quantification methodologies and that submittals be reviewed and evaluated in accordance with the criteria outlined, indicating the need that more detailed provisions would be expected in a final rule.

Southern California Edison

SCE encourages staff to revise the Draft Statement to provide that VEA that meet criteria that may be adopted in the future are prima facie evidence that a VEA provides greenhouse gas

("GHG") reductions that are "real, permanent, verifiable and enforceable" and that the VEA should therefore be certified.

ARB should also include that it intends to quickly adopt and implement methodologies for the quantification of VEA for use in compliance with AB 32. CARB should continue by saying that VEA that meet its adopted quantification metrics will be evidence of "real, permanent, verifiable and enforceable" GHG reductions and thus are likely to be certified.

CARB should solicit suggestions for VEA quantification methodologies. Second, upon review of these comments, CARB should move to adopt a quantification methodology that establishes the baseline threshold that a proposed VEA must meet. Speedy adoption of quantification/certification methodologies will encourage investment in VEA now.

Aimee Barnes
Eco Securities

Eco Securities encourage ARB to strengthen the language to be more explicit regarding how "credit" for VEA will be given. They specifically support granting tradable early action credits (TEACs) for early reductions made. They feel that committing to TEACs does not unnecessarily predetermine how credit will be given. It provides structure and certainty to the carbon market, while still leaving open a number of important design components whose subsequent definition provides the appropriate opportunity for promoting desired policy outcomes.

Taylor Miller
Sempra Energy

Sempra Energy supports crediting prior action and that details concerning how far back in time credit could be given should be addressed in the Policy Statement.

They believe that the different approaches to providing "credit" should be acknowledged (i.e. in the design of direct regulation as well as cap and trade).

Sempra Energy recommends that the following statement be so amended:

-Ensure that any ~~credits or~~ offsets provided for voluntary early actions are based on emission reductions that are real, permanent, quantifiable, verifiable, and enforceable.

This is because credits for other activities outside of the offsets arena, should not be subject to the same criteria.

They are also requesting the development of protocols to quantify voluntary early reduction projects.

**Tom Jacob
DuPont**

DuPont explicitly believes that the Statement so written could effectively penalize companies that have reduced emissions before the program is put into place if those reductions are not acknowledged. They are recommending giving credit for prior action.

The challenge in any voluntary early action policy will be to put into place practices which 1) provide a high level of assurance that actual reductions accomplished will, indeed, be recognized; and 2) establishes protocols for documenting those actions, sufficient to meet anticipated standards and tests of verification. This implies systematic attention to a number of challenging questions, including but not limited to: documentation criteria for retroactive crediting; "additionality" criteria; specific verification protocols, etc.

**Andrew S. Cheung
Los Angeles Unified School District**

The Policy Statement should include a provision that provides guidance for public agencies, and recognizes the historic and current efforts of public agencies to reduce greenhouse gas emissions.

To the extent that District projects and other measures that reduce greenhouse gas emissions are not otherwise mandated by existing regulations, they should be given credit as voluntary early actions.

**City of Los Angeles Environmental Affairs Department
Detrich Allen**

They ask that we clarify in the Policy Statement what the term "company" does and will include local government entities and other types of public and private organizations working to reduce GHG emissions because they too may be required to report or reduce emissions in the future.

**McCarthy & Berlin, LLP
C. Susie Berlin
Attorneys for the Northern California Power Agency**

They would like ARB to recognize the distinction between "encouraging early action" and what is meant by encourages early action to reduce greenhouse gas emissions." They believe that it is imperative that both categories of voluntary early actions that result in real GHG reductions be equally recognized when drafting the Scoping Plan during the coming months and when implementing AB32 during the next few years.

Bill Held
Environmental Engineering and Compliance Republic Services

Bill Held would like to add that he supports Mr. Chuck White's comments to ARB.