



South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov

December 14, 2010

Mary Nichols, Chairperson
James Goldstene, Executive Officer
California Air Resources Board
1001 I Street
Sacramento, CA 95812

**Re: SCAQMD Comments on the Proposed Amendments to the Regulation for the
Mandatory Reporting of Greenhouse Gas Emissions and the Proposed California
Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms**

Dear Ms. Nichols and Mr. Goldstene:

South Coast Air Quality Management District (SCAQMD) staff have participated in the process of developing these regulations since their inception. We have worked with other air districts and CARB staff to provide input, and have made suggestions to improve the program and make implementation more efficient. SCAQMD staff supports the comments submitted by CAPCOA in their December 8, 2010 letter to Mary Nichols and James Goldstene. Below are SCAQMD specific amendments requested to the staff proposal and the adopting Resolution.

1. Verification for Greenhouse Gas Offsets

Similar language to that which CARB staff will be proposing as a 15-day change for the Mandatory Reporting Regulation is requested for the cap and trade regulation. The language below would clarify that local air districts would not have high conflicts of interest in performing non-verification services when staff from an air district verifies greenhouse gas offset projects. The rationale for this language is that air districts are regulatory partners, do not have profit motivation, and are not interested in assuring repeat business for verification.

Add § 95979(g). Specific Requirements for Air Quality Management Districts and Air Pollution Control Districts.

- (1) If an air district has provided or is providing any services listed in section 95979 (b)(2) as part of its regulatory duties, those services do not constitute non-verification services or a potential for high conflict of interest for purposes of this subarticle;
- (2) Before providing offset verification services, an air district must submit a self-evaluation pursuant to 95979 (e) to the Offset Project Operator or

- Authorized Project Designee and ARB or the Offset Project Registry for each offset project for which it will perform offset verification services. The self-evaluation must contain the information specified in section 95979 (e) for all entities for which it intends to provide offset verification services;
- (3) As part of its conflict of interest self-evaluation submittal under section 95979 (e), the air district shall certify that it will prevent conflicts of interest and resolve potential conflict of interest situations pursuant to its policies and mechanisms submitted under section 95132 (b)(1)(G);
- (4) If an air district hires a subcontractor to provide offset verification services, the air district shall be subject to all of the requirements of section 95979.

2. Protocol Development and Review

SCAQMD and other air districts have expertise and resources that can assist CARB in developing additional technically strong offset protocols. We are interested in developing offset protocols that deliver additional greenhouse gas reductions, while also providing local co-benefit pollutant reductions and helping with the economic viability of our businesses and communities. There should be a process to identify needed protocols and a commitment from CARB for substantive and timely review of draft protocols. The Resolution language below is recommended:

Add: BE IT FURTHER RESOLVED that the Board directs the Executive Officer to meet with local air districts and other stakeholders in the next three months to identify protocols that will be evaluated for development by air districts. The Executive Officer will provide timely technical review of draft protocols, take the protocols through the public process, and bring multiple protocols to the Board for consideration as soon as practicable.

3. Multiple Functions

The draft regulation specifically prohibits local air districts from performing multiple functions related to the cap on Greenhouse Gas Emissions compliance program. However, SCAQMD has staff resources and expertise that can help ensure successful implementation of the program and other stationary source programs under AB32. The potential conflict of interest issues applicable to for-profit businesses do not exist for a local air quality agency like SCAQMD. Our organization is a sister regulatory agency with public health as the primary motivation. We are not for-profit, and would approach any function with the motivation to do what is right, not to generate income or ensure repeat business. We request the ability to perform multiple functions in the cap and trade program, including holding compliance instruments, verification of emission reports and offsets, and commissioning and/or overseeing offset projects, and potentially running a Registry (i.e. electronic bulletin board) for greenhouse gas offsets. Such participation can assist with implementation and relieve some of the enormous resource needs for CARB.

For example, we may wish to use offsets to prefund the AQMD Registry under Regulation XVII – Climate Change, which can currently be used for CEQA mitigation. The amount of offsets or

compliance instruments that would be held for these purposes would be inconsequential and could not affect market prices or availability of compliance instruments.

Local air districts like SCAQMD also have the expertise and resources to develop protocols and commission or implement high quality offset projects. Any offsets developed by SCAQMD following CARB-approved protocols will be verified by a 3rd party. Implementing local offset projects retains the investment, jobs, and co-pollutant benefits in the local community.

The SCAQMD Board is very interested in potentially running a Registry (electronic bulletin board) for greenhouse gas reductions that could be used for CEQA and compliance with the state's cap and trade program. The motivation is to assist local businesses needing greenhouse gas reductions for CEQA or for the state program. The additional language, below, would enable such participation.

Add § 95989. California Air Pollution Control Districts or Air Quality Management Districts.

California air pollution control districts or air quality management districts shall be approved for multiple roles, which include verification of offset projects or emissions data for mandatory reporting, holding compliance instruments, implementing offset projects that are verified by a third party and approved by CARB, and running a Registry; provided the appropriate training, accreditation or approvals are obtained from CARB pursuant to sections 95132, 95978, 95814 and 95986. Decisions on such approval requests shall be provided in a timely fashion.

4. Reporting Software

The Regulation for the Mandatory Reporting of Greenhouse Gas Emissions includes a provision that allows a local air district to develop a consolidated reporting tool that facilities in their jurisdiction could use to report greenhouse gas emissions to CARB using an approved local air district program. SCAQMD staff requests a commitment from CARB that the contractor that developed the CARB reporting system can review the SCAQMD system (at SCAQMD expense). Then, the SCAQMD system could be updated to match the modifications to the mandatory reporting rule. Consolidated reporting serves both our agencies and businesses by avoiding duplicative reporting and reducing inconsistencies that are inevitable if the same information is reported to two agencies. We recommend the following Resolution language to address this issue.

Add: BE IT FURTHER RESOLVED that the Board directs the Executive Officer to work collaboratively and in a timely manner with local air districts that have or will develop reporting tools designed to consolidate emission reporting pursuant to §95104(e).

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5. Follow Up and On-Going Coordination

SCAQMD staff support the CAPCOA recommendation that there be a report to the CARB Board in three months regarding how local air districts are being utilized in various aspects of the program, including emission verification, offset verification, and protocol development. This can help ensure better collaboration in the future and enable appropriate use of local air district resources and expertise.

Further, an advisory committee with participation by a CARB Board member would be an effective tool to further enhance the collaborative partnership that SCAQMD and other air districts would like to forge with CARB on AB 32 programs. We recommend the following Resolution language to improve on-going coordination with local air districts.

Add: BE IT FURTHER RESOLVED that the Board directs the Executive Officer to establish an Advisory Committee with air districts to facilitate their involvement in implementation of this regulation and other AB 32 programs. The Executive Officer is directed to report back to the Board in three months regarding progress for this effort.

Summary

SCAQMD staff supports the Proposed California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms, and recommends consideration of the suggested language changes and resolution language above. SCAQMD staff also supports the comments submitted by CAPCOA in their December 8, 2010 letter to Mary Nichols and James Goldstene. These changes would allow local air districts like SCAQMD the opportunity to assist with verification of emission reports and greenhouse gas offsets, protocol development and implementation, holding compliance instruments and potentially running a Registry for greenhouse gas offsets. This would benefit the state programs and California residents. We stand ready to be a fully engaged partner in this effort with you and appreciate your consideration of these requests. Please feel free to contact me at (909) 396-2100.

Sincerely,



Barry R. Wallerstein, D.Env.
Executive Officer

cc: CARB Board members