



Finding the ways that work

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Subject: Comments of Environmental Defense Fund on Second Proposed 15-Day Changes to the AB32 Cap-and-Trade Regulation

Mr. Cliff and Ms. Chang,

Environmental Defense Fund ("EDF") commends the California Air Resources Board for the effort that has gone into the current draft of the cap-and-trade regulation. This regulation, as written, includes an appropriate blend of elements from past successful cap-and-trade programs and integrates an array of well-reasoned, new features. We firmly believe this regulation will result in dramatic greenhouse gas pollution reductions throughout California during its proposed eight year timeframe and will stimulate the development of innovative solutions necessary to transition California into a low carbon economy. EDF therefore strongly recommends the Board adopt the regulation as law.

Programmatic review will be necessary: Adopting and setting the cap-and-trade regulation in motion does not signify the end of the regulatory process. To make sure the program is performing as planned and to enable CARB to respond to unwanted conditions that may arise, effective programmatic review must be a part of the regulatory agenda - both during the first compliance period and following periods. Accordingly, EDF encourages CARB remain committed to the following important efforts:

- Adaptively managing the program for unwanted indirect environmental impacts;
- Performing periodic reviews of existing and future offset protocols;
- Continuously performing reviews of market operations to assess leakage and guard against windfall profits - leading to a thorough evaluation of the appropriateness of the current allocation formulas in future compliance periods;
- Developing a new refinery allocation formula, based on information developed during ongoing and planned research efforts, for use starting in the second compliance period.

To achieve public support and overall integrity, reviews should be built on sound scientific data and observations of market activity, and be completed in a transparent, public process.

Development of strong and transparent guidance documents is important: In addition to programmatic review efforts, EDF also views the development of strong and transparent guidance documents relating to program enforcement and offset evaluation as an important effort that should be pursued as soon as possible. While procedures and guidance for compliance and enforcement will necessarily be based on implementation of the regulatory wording, ensuring regulated entities and project developers understand the way in which the regulation is applied, (and in particular, where CARB has discretionary authority), is important to maximize certainty and assist financial decision making.

As with any new regulatory program, some “learning by doing” will be embedded into the cap-and-trade implementation process. However, EDF believes the regulation as written meets the goals and objectives of AB 32 and will stimulate the development of innovative emissions reductions projects and technologies. We look forward to working with CARB and other stakeholders throughout California in these ongoing efforts.

If you have any questions or concerns regarding the comments made in this letter, please contact me at toconnor@edf.org or (415) 293 – 6132.

Sincerely,



Tim O'Connor
Director, California Climate and Energy Initiative
Environmental Defense Fund