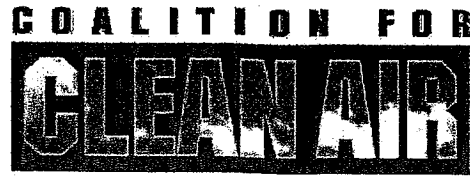


Nidia Bautista
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BREATHE
CALIFORNIA



October 20, 2011

Chairman Mary Nichols
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Chairman Nichols:

Breathe California and Coalition for Clean Air are writing to express recommendations for strengthening the proposed Adaptive Management Plan to protect public health. We appreciate the commitment in the Plan for ongoing monitoring and evaluation of the cap and trade program. The cap-and-trade program is unique in that it is a flexible compliance mechanism that requires additional strong oversight, monitoring, and evaluation to protect against unintended consequences to local and regional air quality and public health.

We support and appreciate CARB's commitment to ongoing monitoring and evaluation of the cap and trade program. While greenhouse gas emissions are global in their nature, the same sources that emit greenhouse gases are more often than not also emitting toxic and criteria pollutants (co-pollutants). Given the flexible compliance options that are afforded by the cap and trade program, it is imperative that these co-pollutants are also monitored to ensure the program is not unintentionally resulting in their increase. We acknowledge the difficulty of accurately monitoring, evaluating and adequately responding to potential unintended consequences to local and regional air quality and public health.

We support the CARB staff proposal to include annual reporting as a key component of engaging the public and stakeholders in the oversight of cap and trade implementation. We also support the proposal's acknowledgement of the need for close communication and data sharing that will occur with local air districts, who directly oversee local facility permitting processes. We also support the steps identified in the plan that will be considered if the data and investigation indicates that the cap-and-trade regulation results in adverse impacts to air quality, including modification to the regulation and use of auction revenue to mitigate impacts.

In order to clarify and strengthen the proposed program, we offer the following recommendations for staff consideration.

1. ***The baseline for measuring adverse environmental impacts should consider the regulatory environment.*** The data examined should include analysis of the regulatory environment, including US EPA and local air district rules and regulations, to evaluate whether the cap and trade program is a cause of an adverse environmental impact. Specifically, reductions in pollution required by a local air district regulation should be

attributed to that regulation, and not be double-counted in the adaptive management program.

2. ***Public participation should occur earlier in the adaptive management process than is outlined in the proposal.*** The public comment and review process should begin at the conclusion of step 1, when ARB staff has determined that an impact to local air quality has occurred. Stakeholders from impacted communities should also have the opportunity to consult with staff on the process from start to finish and be able to inform the process as it moves forward.
3. ***CARB should work to prevent potential adverse impacts before they occur.*** The stepwise approach provides for remedial action once an environmental change caused by the regulation results in an adverse impact. While this is a significant step, it is important to consider if early indicators and observed environmental changes are on the path toward becoming adverse impacts, and to initiate an early response. The potential need and procedural considerations for a more rapid response to adverse impacts should also be considered.
4. ***CARB should clarify the decision-making process for engaging in corrective action.*** The process defined by CARB appropriately identifies the challenges in identifying, linking and acting on unintended negative outcomes that may arise due to cap and trade implementation. The process does rely on regulatory judgments based on the weight of the evidence, but this process is not yet well defined by the proposal. Further identification of potential causal pathways would advance the methods for evaluating the evidence, as well as a timeline and detail on specific staff responsibilities.
5. ***CARB should include the full range of response actions identified to date.*** The Initial Statement of Reasons provides a fuller listing of the potential responses than are included in the proposed Adaptive Management program. Including the additional market/regulatory responses included in the ISOR provides the public a broader range of examples as to the type of actions that could be taken should an unforeseen issue arise.

We support CARB moving forward with important precaution to prevent inadvertent or unintended consequences to air quality and public health due to the implementation of the cap and trade component of the Climate Change Scoping Plan to implement AB 32. We look forward to working with you as the program develops to ensure successful implementation and progress toward meeting the goals of this program.

Sincerely,

Andy Katz
Breathe California

Nidia Bautista
Coalition for Clean Air