

Association of Irrigated Residents
Tom Frantz, President
29389 Fresno Ave
Shafter, CA 93263

California Air Resources Board
via online through the CARB webpage
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ws&comm_period=1)

Re: comments on the Cap and Trade Adaptive Management Discussion Guide for the Draft Process to Monitor Emissions from California Cap and Trade Facilities with a date of 11-05-2015

Introduction and Background:

The Association of Irrigated Residents (AIR) is an incorporated non-profit operating in the state of California since 2001. AIR members currently reside in the five San Joaquin Valley counties of Kern, Tulare, Kings, Fresno and Stanislaus. AIR advocates locally, statewide and federally for environmental justice and a cleaner environment for San Joaquin Valley residents. AIR has had a member on the Environmental Justice Advisory Committee for AB32 since the inception of the EJAC in 2008.

AB32 language, for all intents and purposes, does not allow any GHG emission reduction plan to allow a worsening of air pollution in a region or community. That especially includes the Cap and Trade plan which is a market mechanism. The law basically recommends, and expects, that co-benefits from reduced criteria air pollutants will take place in most cases around regulated facilities which are decreasing their GHG emissions either directly or indirectly through offsets and trading of emission reductions.

The following language is taken from parts of AB32 as passed by the state legislature and signed by the Governor. The highlighted sections, sentences, or phrases must be emphasized as applicable directly to the proposed adaptive management plan.

(h) It is the intent of the Legislature that the State Air Resources Board design emissions reduction measures to meet the statewide emissions limits for greenhouse gases established pursuant to this division in a manner that minimizes costs and maximizes benefits for California's economy, improves and modernizes California's energy infrastructure and maintains electric system reliability, maximizes additional environmental and economic co-benefits for California, and complements the state's efforts to improve air quality.

38562. (a) On or before January 1, 2011, the state board shall adopt greenhouse gas emission limits and emission reduction measures by regulation to achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions in furtherance of achieving the statewide greenhouse gas emissions limit, to

become operative beginning on January 1, 2012. (b) In adopting regulations pursuant to this section and Part 5 (commencing with Section 38570), to the extent feasible and in furtherance of achieving the statewide greenhouse gas emissions limit, the state board shall do all of the following: (1) Design the regulations, including distribution of emissions allowances where appropriate, in a manner that is equitable, seeks to minimize costs and maximize the total benefits to California, and encourages early action to reduce greenhouse gas emissions. (2) Ensure that activities undertaken to comply with the regulations do not disproportionately impact low-income communities. (3) Ensure that entities that have voluntarily reduced their greenhouse gas emissions prior to the implementation of this section receive appropriate credit for early voluntary reductions. (4) Ensure that activities undertaken pursuant to the regulations complement, and do not interfere with, efforts to achieve and maintain federal and state ambient air quality standards and to reduce toxic air contaminant emissions. (5) Consider cost-effectiveness of these regulations. (6) Consider overall societal benefits, including reductions in other air pollutants, diversification of energy sources, and other benefits to the economy, environment, and public health. (7) Minimize the administrative burden of implementing and complying with these regulations. (8) Minimize leakage. (9) Consider the significance of the contribution of each source or category of sources to statewide emissions of greenhouse gases.

38570. (a) The state board may include in the regulations adopted pursuant to Section 38562 the use of market-based compliance mechanisms to comply with the regulations. (b) Prior to the inclusion of any market-based compliance mechanism in the regulations, to the extent feasible and in furtherance of achieving the statewide greenhouse gas emissions limit, the state board shall do all of the following: (1) Consider the potential for direct, indirect, and cumulative emission impacts from these mechanisms, including localized impacts in communities that are already adversely impacted by air pollution. (2) Design any market-based compliance mechanism to prevent any increase in the emissions of toxic air contaminants or criteria air pollutants. (3) Maximize additional environmental and economic benefits for California, as appropriate.

And finally,

38591. (a) The state board, by July 1, 2007, shall convene an environmental justice advisory committee, of at least three members, to advise it in developing the scoping plan pursuant to Section 38561 and any other pertinent matter in implementing this division. The advisory committee shall be comprised of representatives from communities in the state with the most significant exposure to air pollution, including, but not limited to, communities with minority populations or low-income populations, or both.

Just for emphasis, probably the most important phrase in all of the highlighted sentences above and related directly to the adaptive management plan for Cap and Trade is the following:

38570.... (b)... (2) Design any market-based compliance mechanism to prevent any increase in the emissions of toxic air contaminants or criteria air pollutants.

In light of the above, it is paramount that the Adaptive Management Plan looks broadly at the effects of Cap and Trade regulations and actions in relation to toxic and criteria air emissions in environmental justice communities across the state.

AIR commends ARB for beginning this process. The Greenhouse Gas Emissions Mapping Tool is a good first step.

Here are AIR's specific comments on the proposal:

First of all, it is noted that the public comment period for this proposal closes on December 4, 2015. That seems to preclude the Environmental Justice Committee meeting as a group to discuss this proposal since their first meeting of the third round will not take place until December 10, 2015. We request that when the EJAC meets in December that their comments and recommendations on this proposal will be fully considered, responded to, and included formally with the rest of the public comments before the final draft is written in early 2016.

The Adaptive Management Plan proposes to monitor emission trends in California communities and across industrial sectors over multiple years looking specifically at changes in emissions of GHG, toxic and criteria air pollutants. Tracking these emissions over time is very important, especially in individual communities. We note that other factors besides Cap and Trade will be possibly influencing pollution levels in these communities over time such as rules and regulations by local air districts, ARB, and EPA which will be designed to decrease air pollution and toxic emissions and may even have co-benefits for GHG emission reductions. It will be important to separate out specific cause and effect in relation to any measured changes in these types of emissions. It is good that ARB is committed to reporting its findings and receiving public comment on an annual basis.

The proposal lays out some flowcharts for different scenarios and describes in broad language what CARB staff will be expected to examine and try to resolve under the proposal. The flow charts show that staff will examine equipment modifications and check to see if there is a sudden change up or down at a facility in their GHG emissions and a corresponding increase in toxic or criteria air pollutants due to the equipment modification.

We feel that the proposal as described above is too limited in scope and not detailed enough in laying out other areas that will need investigation.

The following three scenarios should be specifically included. An example and a suggested remedy or required action follows each scenario in these comments. CARB should lay out a specific protocol for these scenarios and the proposed response should be designed to remedy the specific problem.

Scenario 1. Did GHG emissions directly decrease and criteria air pollutants remain the same or possibly increase?

This scenario can happen when a facility such as a power plant or cogeneration plant converts from burning fossil fuel to burning biomass either partially or totally. In this situation, efficiency of energy production will decrease, local trucking will increase, and the facility's criteria air emissions will increase for every unit of energy produced. This action will *negatively impact nearby communities already adversely impacted by air pollution and will interfere with efforts to achieve and maintain federal and state ambient air quality standards*. The negative outcomes will result directly from the need for the regulated facility to reduce their GHG emissions. Ironically, even though total GHG emissions will actually increase in this scenario, most of the increase will be considered biogenic and no longer counted in the inventory.

If this should happen, then CARB should not give any credit for the decrease in GHG emissions to the regulated facility because the decrease is in direct violation of AB32. Their total GHG emissions will still need to fall under Cap and Trade regulations and be reduced under the Cap.

Scenario 2. Did cap and trade facilities purchase GHG offsets that are not in the same region or community and criteria air pollutants therefore either remained the same or even increased?

This should be tracked so communities understand whether they are losing out on the co-benefits of reducing GHG emissions. A nearby facility such as a power plant may eventually need to purchase a large amount of offsets which will be implemented far outside the boundaries of an impacted community and even in another state. The Adaptive Management Plan should discuss this situation openly with such communities. It is possible that the affected community will have real ideas for offsetting those GHG emissions locally which can improve the local environment at the same time.

As an example, there can potentially be an increase in production at a power plant or cogeneration facility or from oil field steam boilers which would increase criteria air pollutants locally while the corresponding increasing amounts of GHG emissions plus any emission reductions under the Cap and Trade system are being offset elsewhere.

The Adaptive Management Plan should tell the public when this situation has occurred.

There should be no offset credit given for the portion of offsets purchased which relate to any increase in criteria air pollutants. There can be no credit under AB32 for two reasons.

1. There is no maximization of co-benefits and 2. This does not complement the state's efforts to improve air quality. Instead, there is an increase in criteria air pollutants from a market based compliance mechanism.

Scenario 3. Does the implementation and use of Cap and Trade offsets in a region or community in California increase criteria air pollutants from the facility where the offset takes place or in the surrounding community?

For example, a large factory dairy may receive offset funds to build a methane digester on top of a manure lagoon. The captured methane may be used locally to run an engine to pump water for the dairy. The same water may have been pumped with electricity previously which is either totally or partially generated from renewable and non-polluting sources such as wind or solar. The consequence is an increase in local criteria air pollutants from the engine.

It is a fact that many agricultural pumps have converted from electricity to natural gas in recent years in the San Joaquin Valley because it is a cheaper energy source. The idea that the produced and captured methane from a dairy enter the natural gas pipeline will increase local supply of natural gas and tend to lower the price of that natural gas. This will, in turn, cause more facilities to use natural gas as a fuel in the region instead of cleaner electricity which is more expensive.

Another possible situation at a factory dairy is the methane digester, subsidized with offset funding, facilitates the capture of most of the nitrogen in the manure lagoon as ammonia gas and this is released into the air at rates greater than the agitated lagoon would release without the digester in place. In this scenario, there is an increase in ammonia emissions in the local area which will have a direct effect on the quantity of ammonium nitrate or PM2.5 in the local area.

If there is any increase in criteria air pollutants in a community or region then the offset should not be allowed. The ***design of any market-based compliance mechanism must prevent any increase in the emissions of toxic air contaminants or criteria air pollutants.***

In all of the scenarios above where there is actually a net increase in criteria air pollutants, it is not sufficient to simply say that CARB expects the local air district will require mitigation of the increase in criteria air pollutants. In some cases it may be true that some of the increase may be mitigated by emission reduction credits or payment into some kind of incentive fund. But, that will not change the fact that in almost every case pollution has increased locally near an already impacted community from a cap and trade regulation or market mechanism for GHG emissions which is illegal under AB32.

Also, there should be a provision in the Adaptive Management Plan that actually anticipates some of the above scenarios. There is no reason that a careful analysis of a specific situation in a specific community cannot predict what will happen with Cap and Trade implementation. When a likely scenario is developing that will go against AB32, as described in these comments, it is up to ARB to take pre-emptive action to prevent these negative consequences.

AIR looks forward to further discussion on these matters.

Sincerely,

Tom Frantz
President, Association of Irrigated Residents