



California Council for Environmental and Economic Balance

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December 4, 2015

Mr. Michael Tollstrup
Chief, Project Assessment Branch, Industrial Strategies Division
Air Resources Board
1001 I Street
Sacramento, CA 95812
Submitted via ARB webpage

RE: Cap-and-Trade Adaptive Management Process (AMP)

Dear Mr. Tollstrup,

On behalf of the California Council for Environmental and Economic Balance (CCEEB), we appreciate the opportunity to submit comments on the Adaptive Management Process (AMP) and the November 5 discussion guide.

Our main concern is that the objective of the AMP has not been clearly defined. The discussion draft lays out a detailed process for collecting and analyzing data, as well as suggesting potential future actions based on results, but it does not state what the ARB or the air districts seek to accomplish or what questions the AMP is meant to answer. Consistent with the October 10, 2011 ARB report, CCEEB believes that the AMP should determine whether the State's cap-and-trade program has caused unintended consequences by increasing criteria or toxic emissions, and, in cases where it finds emissions have increased solely due to cap-and-trade, recommend appropriate mitigations. In doing so, the AMP should be guided by Section §38570(b) of AB 32, which states:

"Prior to the inclusion of any market-based compliance mechanism...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."*

CCEEB has additional questions and comments, as follows:

- **The ARB should expand representation on the working group.** Interpretation of emissions trends at facilities requires knowledge of equipment, engineering, operations and processes, as well as the regulatory requirements with which facilities must comply. CCEEB does not believe a single industry representative is adequate to address these critical areas and strongly urges the ARB to add additional industry seats.
- **The working group should review and provide recommendations on the full scope of the proposed AMP,** not just interpretation of results. Similarly, all public stakeholders should have

opportunity to comment. The November 5 discussion document describes a very detailed process but provides little background on the underlying assumptions, nor does it provide any rationale for the proposed steps and components of the AMP. For example, why was a five percent increase in GHG emissions chosen as a trigger for further review? How were baseline years chosen, and why? How will geographic areas be defined, by what criteria, and for what reasons? Why are economic sectors included and how does this relate to localized adverse impacts given that individual facilities could be spread across the state?

- **The AMP should be designed in a way that preserves the functionality of cap-and-trade,** including the flexibility afforded to facilities in determining the most appropriate approaches for meeting their compliance obligations.
- **How will emission increases “due to Cap-and-Trade,” be determined?** And how will air agencies account for typical changes in operations due to other forces, such as changes in demand for products and services? CCEEB believes that triggers or criteria to answer these questions must be firmly grounded in science and engineering, and quantifiable or objective to the fullest extent possible. We also believe the technical challenges posed in answering these questions underscores the need for people with direct operational expertise on the working group.
- **How will emissions due to other mandates be addressed in the AMP?** For example, what if a facility must add process equipment in order to comply with regulatory requirements unrelated to cap-and-trade, causing onsite emissions to increase even though the project is environmentally beneficial? What if some pollutants increase while others decrease and none of the changes relate to cap-and-trade? What if a manufacturer adds a cogeneration unit in order to increase energy efficiency?
- **What if emissions increase in a community that is not considered overly burdened by air pollution or where no adverse impacts are shown?**
- **What is the process for determining agency responses?**

CCEEB assumes that many of our questions and comments will be addressed as the draft AMP is further developed. However, we were surprised by the detailed flowchart released in November given there has been no public discussion since 2011. We ask the ARB and its partner air districts to be inclusive of stakeholders going forward, and to develop the AMP in a transparent, open process that allows for meaningful public participation.

Sincerely,



GERALD D. SECUNDY
President



WILLIAM J. QUINN
Vice President/Chief Operating Officer

cc: Chair Nichols and Members of the Air Resources Board
David Mallory, Air Resources Board
Alan Abbs, California Air Pollution Control Officers Association
Kendra Daijogo, CCEEB Climate Change Project Manager