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Jack P. Broadbent  
EXECUTIVE OFFICER/APCO

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

Dear Ms. Nichols:

I am pleased to express the support of the Bay Area Air Quality Management District (the District) for the proposed amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (Mandatory Reporting Regulation) including §§ 95133(h) Specific Requirements for Air Quality Management Districts and Air Pollution Control Districts. These amendments address verification of greenhouse gas (GHG) emissions, which is a fundamentally important element of the California Cap on Greenhouse Gas Emissions and Market-based Compliance Mechanisms (Cap-and-Trade Rule), that will be considered for adoption by the California Air Resources Board (CARB) at your Dec. 16-17 meeting.

The new language in §§ 95133(h)(1) establishes a presumption that multiple functions performed by air districts as a part of their regulatory duties do not constitute a potential for a high conflict of interest with regard to verifying emissions of greenhouse gases under the mandatory reporting program. Furthermore, the provision in §§ 95133(h)(2) offers a clear path for each air district to stipulate that no conflict of interest exists when there is an intention to provide emission verification services. It has taken significant effort on the part of California air districts to reach agreement with CARB staff on these provisions. The resolution of these issues, with regard to the Mandatory Reporting Regulation, is a very positive development.

We believe the conflict of interest provisions embodied in CARB's proposed amendments to the Mandatory Reporting Regulation offer a reasonable model to resolve a similar issue the air districts have with the proposed Cap-and-Trade Rule. Therefore, we support the California Air Pollution Control Officers Association (CAPCOA) proposed amendment §§ 95979(g) Specific Requirements for Air Quality Management Districts and Air Pollution Control Districts (attached). This proposal clarifies conflict of interest requirements for air districts as verification bodies for verification of offset reports. The language is parallel to CARB's proposed conflict of interest language for air districts as verifying bodies for GHG emissions.

While the District has no immediate plans to verify offset reports, we recognize that other air districts currently do or plan to perform such activities as a part of their regulatory duties. When that is the case, we think it is appropriate to presume that the performance of those duties does not constitute a high potential for conflict of interest.

The multiple functions performed by air districts as part of their regulatory duties has the potential to touch on other provisions in the Cap-and-Trade Rule. The performance of multiple functions is a fundamental characteristic of any regulatory agency. Therefore we also support the language proposed by CAPCOA in § 95989

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California Air Pollution Control Districts or Air Quality Management Districts (attached), to ensure the issue is addressed consistently throughout the Cap-and-Trade Rule.

As the Cap-and-Trade Rule moves from the development phase to its implementation, many questions and outstanding issues will certainly arise. Affected industries and the general public will turn to their local air districts for answers and assistance. In particular, members of local governing boards will want a clear understanding of program requirements on large industries in their districts. Local air district staff will be expected to have a thorough understanding of the Cap-and-Trade Rule. Moreover, the success of the Rule is of critical interest to the air districts as it is one of the most significant control measures included in the adopted Scoping Plan.

In order to ensure the Cap-and-Trade Rule is well understood by industry, governing boards and the general public, that implementation issues are resolved consistently and that CARB and the air districts speak with one voice to the extent possible, the District strongly suggests that CARB create a Cap-and-Trade Working Group with local air districts. Such a working partnership between CARB staff and the air districts would go far toward ensuring the success of the Cap-and-Trade Rule.

Thank you for the opportunity to provide our comments on CARB's proposed amendments to the Mandatory Reporting Regulation and proposed Cap-and-Trade Rule. CARB staff is to be commended for all their hard work on these complex and critical requirements of California's Global Warming Solutions Act.

Sincerely,



Jack P. Broadbent  
Executive Officer/APCO

Attachments (2)  
cc: James Goldstene

JPB:bfj:js

*Attachment 1*

**§ 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.

*Attachment 2*

**§ 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.