



San Joaquin Valley

AIR POLLUTION CONTROL DISTRICT

CO 11-62

November 14, 2008

ORIGINAL: Board Clerk
Copies: Executive Officer
Chair

Mary Nichols, Chair
California Air Resources Board
1001 I Street
P.O. Box 2815
Sacramento, CA 95812

RE: San Joaquin Valley Air Pollution Control District's Comments on the Proposed AB 32 Scoping Plan

Dear Ms. Nichols:

The San Joaquin Valley Air Pollution Control District (District) congratulates and commends the California Air Resources Board (ARB) for its vision and commitment in tackling the complex issue of climate change. The Proposed Scoping Plan (Plan) released by ARB staff in October of 2008 presents a broad series of measures designed to reduce greenhouse gas emissions (GHG) from nearly every sector of society and the economy, and is clearly a substantial first step in implementing the mandates of Assembly Bill 32.

Tremendous challenges remain ahead of us, specifically in the Scoping Plan's implementation phase. Significant statewide staff and funding resources will be necessary to implement the plan to ensure the proposed measures achieve the projected reductions. The expertise and resources of local districts that regulate stationary sources and interact daily with local governments affected by the proposed measures can and must be an important tool in ensuring efficient and effective implementation and enforcement of the measures.

The ARB Board is well aware of Air Districts' expertise in the areas of stationary source permitting and compliance enforcement, emissions reduction banking and trading, emissions quantification, and emissions inventory verification and reporting. In addition, the ARB has begun to develop an understanding of the close working relationships that each District has necessarily developed with local and regional land-use and environmental agencies. In fact, the ARB board spent considerable time at their October 2008 meeting discussing these issues and expressed a strong intent to define

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a significant implementation role for air districts. The AB 32 Scoping Plan adoption process is the Board's singular opportunity to define and clarify that intent, and the District offers the following comments and recommendations in support of this position:

1. We believe ARB should incorporate in the Scoping Plan and in the adoption resolution the clear intent and direction to staff to develop rules for sources under local air district permitting and/or compliance programs that enable permitting and enforcement of those rules at the local level. Districts already have staff in the field, permitting and inspecting most of the equipment and operations that are targeted by the various industrial-sector measures specified in the plan. While we believe that it is clearly desirable to eliminate as much regulatory redundancy as possible by utilizing those available resources, we believe that ARB's intent should be clearly specified in the plan and the associated adoption resolution.
2. We ask that the Board specifically direct ARB staff to continue to work with Districts to create effective and cooperative enforcement mechanisms and requirements for the plans stationary source measures to facilitate the most efficient and cost-effective approach by dovetailing them with existing District criteria pollutant compliance requirements on those sources.
3. We believe that ARB should specifically acknowledge in the Scoping Plan that local districts are among the organizations that can issue certificates for GHG emission reduction credits, provided they follow approved protocols and requirements, and that ARB will devote resources to work with Districts and CAPCOA on development of additional emission quantification protocols and commit to timely review and approval of the protocols.
4. We request that ARB identify in the Scoping Plan, and incorporate into subsequently developed rules, a mechanism for local district recovery of implementation costs, either through collection of fees by districts for rules they are implementing, or through upstream funding provided by the state to implementing agencies.
5. We strongly urge that the ARB reemphasize in the scoping plan, and in their direction to staff, ARB's commitment under their clean air mandates and the specific language of AB32 to the consideration of the potential for criteria and toxic pollutant emissions increases that sometimes occur due to efforts to reduce GHG emissions reductions. ARB must protect the immediate health of the residents of California by choosing the path of minimizing criteria and toxic pollutant emissions increases, especially in those environmental justice areas that have already been significantly impacted by such pollutants.

For instance the capture and incineration of GHGs, such as in a dairy digester system, may cause an increase in emissions of certain pollutants with known detrimental impacts to public health. We ask that public health remain ARB's top priority, and, when faced with such tradeoffs, that ARB oppose measures that can result in a significant increase in toxic or criteria pollutant emissions in already impacted areas and support those GHG reduction measures that also reduce criteria and toxic pollutant emissions.

6. We support a robust cap and trade program with adequate safeguards to ensure that reductions are quantifiable and enforceable and that the program will not lead to disparate localized impacts. We believe that the cap and trade program should include provisions to prevent market speculation and should include set-asides to protect vulnerable sectors, such as small businesses, essential public services, and local governments. In addition, we strongly believe that a public process should be established for determining project funding criteria for moneys collected in any type of allocation process, and that there should be special dispensation for projects in nonattainment and environmental justice areas. Finally, a cap and trade program must include adequate recognition of early reductions, so that such early GHG control efforts are not disincentivized in industries slated to be a part of the cap and trade program.

In summary, to maximize AB 32 scoping plan implementation efficiency and effectiveness, and to provide a level of certainty to affected stationary sources on the upcoming regulatory structure to facilitate forward planning for compliance, the District recommends that ARB recognize and utilize the existing expertise, program infrastructure and staff resources of the local air districts as a substantial and vital resource for Scoping Plan implementation, particularly related to stationary source regulation.

We stand ready to partner with ARB in this monumental endeavor to implement AB 32, and greatly appreciate the opportunity to provide these comments to assist in that effort.

Sincerely,



Seyed Sadredin
Executive Director/APCO

c: ARB Board Members