



February 29, 2008

**Re: Update on the Status of AB 32 Implementation**

Dear Chairwoman Hancock, Chairwoman Kehoe, and Members of the Committees,

Thank you for your ongoing oversight of implementation of the California Global Warming Solutions Act of 2006 (AB 32). California's leadership to curb global warming pollution is essential to spur the clean energy economy and protect the state from the impacts of global warming. Ongoing leadership from all branches of California government is crucial to successfully achieve the vision outlined in AB 32.

California has now completed the first year of implementation of AB 32, so it is a good time to reflect on the past year's accomplishments and look ahead to the key actions that will be necessary this year.

**Report on the First Year of Implementation**

The California Air Resources Board (CARB) successfully reached all of the major milestones in AB 32 during the first year of implementation.

- ◆ **Early action measures.** CARB adopted nine early regulatory actions intended to jumpstart action to reduce greenhouse gas pollution as soon as possible. CARB expects these early actions to cut pollution by nearly 16 million metric tons of carbon dioxide by 2020, with the most significant reductions coming from the Low-Carbon Fuel Standard. Many additional important early actions are being implemented by the other agencies that are part of the Climate Action Team, such as the Public Utilities Commission and the Energy Commission. NRDC supports these early actions, and we are particularly pleased that many will cut global warming pollution and air and toxic pollution at the same time.
- ◆ **Mandatory reporting.** In early December, CARB adopted the first comprehensive mandatory greenhouse gas reporting regulations in the nation. Electricity generators and providers, oil refineries, cement plants, cogeneration facilities, hydrogen plants, and other large industrial sources will now be required to report their emissions every year.
- ◆ **2020 emissions limit.** AB 32 requires California to reduce statewide emissions back to 1990 levels by the year 2020. In December, CARB completed its inventory of the state's emissions and adopted the specific numerical limit on 2020 emissions: 427 million metric tons of carbon dioxide equivalent.

In addition, the Board recently adopted a policy statement to encourage voluntary early action to reduce global warming pollution, consistent with various directives in AB 32.

NRDC and our colleagues in the environmental community participated actively in CARB's public process leading up to each of these actions. I have enclosed our letters to CARB commenting on each of the staff's proposals, and I am pleased to note that in each case the Board acted positively on our recommendations.

### **Looking Ahead to Design the AB 32 Implementation Plan**

The major milestone for 2008 will be CARB's adoption of the AB 32 "scoping plan," which is the implementation plan describing the package of policies the state should use to cut pollution to meet the 2020 limit.

CARB kicked off its public process to develop the scoping plan last year, and NRDC and our colleagues in the environmental community continue to participate actively. To date, CARB staff have done a good job engaging stakeholders and outlining the goals for the scoping plan as required by AB 32, which include: describing how California will achieve the maximum technologically feasible and cost-effective reductions in emissions to reach 1990 levels by 2020, while putting the state on a path towards much deeper reductions by 2050; establishing California's leadership on addressing climate change; and maximizing co-benefits to California, including criteria and toxic pollution reduction, economic development, and community participation.

There is no single policy that will achieve AB 32's ambitious goals. That is why NRDC recommends that CARB adopt a **comprehensive package of policies** in the scoping plan. We believe this package's foundation should include **continuing and expanding the state's successful regulatory policies and performance standards** that reduce global warming pollution, provide air pollution reduction co-benefits, and spur technological innovation, such as policies to encourage:

- ◆ **Energy efficiency**, including expanding building and appliance efficiency standards and programs that help consumers use energy more efficiently, and new standards to require efficiency upgrades in buildings at the time they are sold;
- ◆ **Renewable energy**, including increasing the Renewable Portfolio Standard to 33%, implementing the California Solar Initiative and AB 1470's incentives for solar water heaters, and new policies to promote renewable sources of natural gas;
- ◆ **Cleaner power plants**, including SB 1368's Emissions Performance Standard and the Self Generation Incentive Program;
- ◆ **Water efficiency**, including standards for buildings, landscaping and appliances, and new policies to adopt a loading order to prioritize water efficiency, establish a public goods charge to fund efficiency programs to help consumers save water, and increase water recycling and Low Impact Development;
- ◆ **Cleaner cars and trucks**, including extending and expanding the AB 1493 clean car standards to heavy duty vehicles and through 2020, tire efficiency standards, the SmartWay aerodynamic improvements to trucks early action measure, new incentives for cleaner passenger vehicles, and new policies to electrify and improve the efficiency of freight transport trucks, ships, and trains;
- ◆ **Low-carbon fuels**, including the low-carbon fuel standard early action measure, and AB 118's research, development and demonstration support; and

- ◆ **Reducing vehicle miles travelled (VMT)**, including new policies such as enactment of SB 375 to direct CARB to set emission reduction targets for regional transportation planning agencies and to provide incentives for local governments who implement the regional plans that meet the targets, development of model local zoning codes to assist local governments in promoting development that reduces VMT, requiring state investments to promote VMT reduction, and improving the efficiency of the goods movement system
- ◆ **Sustainable Forests**, including establishing a public goods charge on forest products to fund incentives for forest conservation, afforestation, sustainable forestry practices on private lands, urban forests, recycling programs for forest products (e.g. paper), and wood-use efficiency.

There are numerous other policies that should also be included in the scoping plan, including a new Low-Carbon Cement Standard to reduce the emissions intensity of cement production, and increasing recycling and composting to achieve zero waste. In October, NRDC submitted proposals to CARB for a dozen of the new programs and policies discussed above for consideration as part of the scoping plan. I have attached a summary of our proposals. Many of these policies provide significant air quality and toxic reduction benefits, such as the efficiency, renewable energy, VMT reduction, and other important policies, thereby achieving multiple state objectives simultaneously. Some of these critical policies, such as the VMT reduction and water efficiency policies, require additional attention and action by the Legislature in addition to the agencies.

We believe this extensive foundation of regulatory programs and performance standards can achieve even deeper greenhouse gas reductions with the addition of a **well-designed cap and trade program** that creates an enforceable, declining absolute cap on emissions from certain sectors and thereby reduces emissions beyond the regulatory programs discussed above and makes businesses factor their global warming pollution into everyday decision-making. As AB 32 requires, CARB must hold an open public process to consider whether a cap and trade program should be included in the scoping plan, and during this process must meet the requirements of Health and Safety Code Section 38570, including the requirement to consider the impact on criteria and toxic air pollutants and prevent any increase in these emissions.<sup>1</sup>

A cap and trade program must be designed well in order to be effective and meet the objectives of AB 32. We share the concerns that many stakeholders have expressed that any such program in California must avoid the mistakes made in past cap and trade programs. To provide just a few examples, it is essential that the program's cap be set tight enough to provide real emission reductions; it must avoid windfall profits by auctioning and using 100% of the value of allowances in the public interest to further AB 32's objectives; and offsets should not be allowed to undermine incentives to transform the energy sectors or substitute phantom reductions for real reductions. I have attached a position paper describing the key design elements that we believe

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<sup>1</sup> Health and Safety Code Section 38570(b) requires that CARB do all of the following before including a market-based compliance mechanism in its regulations: "(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."

should be included in any cap and trade program to make it a constructive part of the AB 32 scoping plan.

We recognize that each of the policy tools discussed above has strengths and weaknesses, and we urge CARB to adopt a package of multiple policy tools that takes advantage of the relative strengths of each of the different policies to meet the multiple requirements and objectives of AB 32.

#### *Environmental Justice Advisory Committee*

The Environmental Justice Advisory Committee has been actively advising CARB on opportunities to reduce global warming pollution, air and toxic pollution, and benefit disadvantaged communities. EJAC continues to help shine a spotlight, in particular, on the continuing challenge that California has in protecting our most vulnerable citizens from the health effects of polluted air. NRDC shares this concern, and we look forward to continuing to work with members of EJAC to advocate for a scoping plan that includes policies that can both meet the state's ambitious global warming pollution reduction goals and benefit disadvantaged communities.

#### *Economic and Technology Advancement Advisory Committee*

The Economic and Technology Advancement Advisory Committee's recently released report includes an overarching recommendation that it is important to place a price on greenhouse gas (GHG) emissions, and that complementary policies, particularly performance-based programs, will be needed "to spur innovation, overcome traditional market barriers . . . and address distributional impacts."<sup>2</sup> We support many of the ETAAC report's recommendations for policies to include in the scoping plan, and I have attached NRDC's comments to CARB on the ETAAC report.

### **AB 32 Is Already Making a Difference**

The Legislature and Governor crafted a bold vision for California in enacting AB 32. That vision includes cutting the state's global warming pollution while providing other environmental benefits to the state, leading other states and the nation to aggressively curb global warming, and spurring the clean tech economy in California. Only one year after the law went into effect, it is already making a difference.

As we discussed above, numerous policies are in place or under development to cut pollution; many of these, such as the state's energy efficiency programs and standards, simultaneously provide billions of dollars in economic benefits and cut air pollution at the same time.

Other states have been quick to follow California's lead. For example, Washington state adopted a law modeled on SB 1368's emissions performance standard for power plants; together these laws have halted construction of dirty power plants throughout the west that otherwise would have been major polluters for thirty to fifty years or even longer. Hawaii and New Jersey have enacted laws modeled on AB 32, and bi-partisan groups of Governors in the West and Mid-West have committed to take action to curb

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<sup>2</sup> ETAAC Report, p. 1-4

global warming. And Congress routinely invokes the state's leadership as it finally begins to take up climate legislation in earnest.

Investments in California's clean tech industry are booming. According to Environmental Entrepreneurs, in the one year after AB 32 passed, venture capital investments in California's clean tech industry increased by nearly 50%, from about \$1.1 billion in 2006 to \$1.8 billion in 2007. California's share of nationwide VC investments in clean tech has steadily increased from 31% in 2004 up to 48% in 2007. Moreover, large well-established companies in California like Applied Materials have also begun to leverage the state's technological skills to enter the clean tech industry.

This is only the start. With continuing leadership, California will be able to tackle our biggest environmental challenge while bringing economic benefits to the state. Thank you for your ongoing efforts to achieve the vision you laid out in AB 32.

Sincerely,

A handwritten signature in black ink, appearing to read "Devra Wang", with a stylized flourish at the end.

Devra Wang  
Director, California Energy Program