



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

August 8, 2011

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

Dear Ms. Nichols:

ALAMEDA COUNTY  
Tom Bates  
(Chairperson)  
Scott Haggerty  
Jennifer Hosterman  
Nate Miley

CONTRA COSTA COUNTY  
John Gioia  
(Vice-Chair)  
David Hudson  
Mark Ross  
Gayle B. Uilkema

MARIN COUNTY  
Harold C. Brown, Jr.

NAPA COUNTY  
Brad Wagenknecht

SAN FRANCISCO COUNTY  
John Avalos  
Edwin M. Lee  
Eric Mar

SAN MATEO COUNTY  
Carole Groom  
Carol Klatt

SANTA CLARA COUNTY  
Susan Garner  
Ash Kalra  
(Secretary)  
Liz Kniss  
Ken Yeager

SOLANO COUNTY  
James Spering

SONOMA COUNTY  
Susan Gorin  
Shirlee Zane

Jack P. Broadbent  
EXECUTIVE OFFICER/APCO

I am writing to provide comments on the Proposed 15-Day Modifications to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (Mandatory Reporting Regulation) and the California Cap on Greenhouse Gas Emissions and Market-based Compliance Mechanisms (Cap-and-Trade Regulation). The Proposed 15-Day Modifications were made available for public review on July 25, 2011, and are being issued as a follow-up to CARB staff's suggested modifications to the original regulations that were distributed at the Dec. 16, 2010 Board hearing, and Board Resolution 10-42, which directed CARB staff to make additional modifications to the regulations before being finalized.

As we indicated in our letter to you on the original staff proposal, and in testimony provided at the Dec. 16, 2010 Board hearing, the District is pleased that new proposed language in the Mandatory Reporting Regulation section 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. The District is satisfied that our concerns have been met regarding the conflict of interest issue associated with the Mandatory Reporting Regulation.

Regarding the Cap-and-Trade Regulation, we are also very pleased to see that CARB has incorporated all the points regarding conflict of interest proposed by the District and CAPCOA for section 95979(g): Specific Requirements for Air Quality Management Districts and Air Pollution Control Districts. This new provision will ease the way for air districts to offer offset verification services to facilities subject to the regulation.

We note however, that contrary to the inclusion in the Mandatory Reporting Regulation of a presumption that air districts' multiple functions do not constitute a potential for a high conflict of interest, new language in the Cap-and-Trade Regulation included in section 95986(d)(3) specifically precludes entities (presumably including air districts) from acting both as a verification body and as a provider of registry services. Likewise, section 95814(b)(1) continues to preclude entities (presumably including air districts) from holding compliance instruments if they are also verifiers, verification bodies or manage Offset Project Registries.

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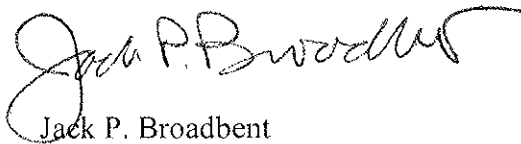
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We continue to believe that the performance of multiple functions is a fundamental characteristic of any regulatory agency. Therefore, we again ask for the inclusion of the language proposed by CAPCOA in a new section 95989: California Air Pollution Control Districts or Air Quality Management Districts, to align the Cap-and-Trade Regulation with the principle resolved in the Mandatory Reporting Regulation (see attachment). This would ensure the issue is addressed consistently throughout the Climate Protection Program.

The District also continues to support the ongoing operation of a Cap-and-Trade Implementation Working Group with CARB and air districts. Such a working partnership between CARB and the air district staff will help ensure the success of the Cap-and-Trade program.

We appreciate the opportunity to provide our comments on CARB's Proposed 15-Day Modifications to the Mandatory Reporting Regulation and the Cap-and-Trade Regulation. CARB staff is to be commended for their hard work on these complex and critical requirements of California's Global Warming Solutions Act.

Sincerely,



Jack P. Broadbent  
Executive Officer/APCO

Attachment  
cc: James Goldstene

*Attachment*

***§ 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.