

Mary Nichols, Chair's Statement, Cap-and-Trade Regulation, September 20, 2012

Mary Nichols – September 20, 2012
Why we need an auction in the cap-and-trade program
Opening Remarks on AB 32 Update, September 20, 2012

We now turn to the AB 32 update. This is an opportunity for the Board to be briefed on the status of the cap and trade regulation adopted in 2009. There will be a staff presentation.

After the staff presentation, there will be public comment. For those of you who have not yet signed up, please check in with the Clerk of the Board outside for a Request to Speak form.

Although the Board will not be taking action, we have set aside about 4 hours to hear from as many of you as possible. As we normally do, we will allow 3 minutes for each speaker. We will post the list so you can see when your turn is coming; if you can be ready and standing near the podium, we will be able to accommodate you more efficiently. We will also be receiving written comments and the board will review them.

Before we adjourn, the Board will consider a resolution giving further direction to staff on various items, but as I said there are no decisions before us today.

As a brief reminder, AB32 was passed by the Legislature and signed by Gov. Schwarzenegger in 2006. The Board adopted a Scoping Plan in 2008. Prior to that time ARB adopted several Early Action Measures, and since then we have adopted and begun to implement all the specific measures called for by the Scoping Plan.

Among those measures are the Advanced Clean Cars Program--recently enacted in a slightly different form by the Obama Administration; the Low Carbon Fuels Standard; a requirement for electric utilities to obtain 33% of their electricity from renewable sources such as wind, solar and geothermal by 2020; a requirement that the largest industrial facilities audit their emissions; a mandatory recycling requirement for large commercial facilities; and an array of specific measures targeting chemicals with high global warming potential.

We have also adopted a declining cap on emissions from the largest industrial sources that will go into effect this January, to be followed by a cap on emissions from fuels such as gasoline and natural gas in 2015.

While no aspect of this program has been free from controversy, an initiative that would have suspended the entire program was overwhelmingly rejected by the voters in 2010, in the depths of the recession. Since that time, the sponsors of that initiative and others who have opposed every measure directed at reducing emissions from the industrial sector have taken to proclaiming their support for AB32 while attacking every single piece of the ARB's program to implement that law.

It reminds me of the refrain we hear at every Board meeting when we are considering rules to clean up sources of the air pollution that still clouds our state: "We're in favor of cleaning up the air, we just don't want (you fill in the blank) whatever measure the Board is considering to do that." Substitute global warming for air pollution and it's the same argument.

Undoubtedly the most novel and controversial element of California's AB32 program has been the cap and trade rule. We have been hearing a lot in the past few weeks, and reading ads in the newspapers about auctions. We will hear more today about why the industries that are under the cap should not have to buy allowances at an auction.

The fact is that outside the electric utilities, who are subject to a different regulation, no business has to participate in the auction. Utilities and industrial sources subject to the cap and trade rule will be issued allowances covering fully 90% of the greenhouse gases they are currently emitting for the first years of the program. As time goes on and the cap declines, those who have cleaned up will have extra allowances to sell. Others will need to do additional cleanup or purchase extra allowances or get offsets created by businesses outside the cap that have been able to find ways to permanently reduce emissions.

We will hear a great deal today about, why we do not need an auction. Surprisingly, this opposition is coming not from the many environmental and environmental justice advocates who supported direct regulation, in which each facility would be told exactly how many tons of greenhouse gases to reduce on a specific schedule.

Instead, as we draw closer to the point of allocating allowances and opening the first auction of 2013 and 2015 allowances, California businesses who argued for the largest possible market are deciding they don't like the market after all.

Over the past five years ARB has met with members of the industrial sector hundreds of times, and developed, with them, an approach where we provided 90% of the allowances for the first years to help with the transition.

The remainder would be offered at auction open to all, to provide an efficient and equitable way to discover the actual value of a ton of carbon -- and to create an incentive for those who can reduce it more cheaply than the allowance price to invest in the technologies to do so. This system rewards the most efficient but allows those who can't or don't want to reduce their emissions to keep on operating and pass the cost of allowances on to their customers.

Knowing the price of carbon allows each facility to make strategic business decisions. The idea of an auction has been in place since the earliest proposal for a cap and trade program. In fact, many of the initial proponents of a cap and trade program argued for auctioning 100% of the allowances as the most equitable way to apportion the costs, as well as a source of revenue to invest in measures that would provide long-term benefit to both consumers, the economy and the environment.

When the Board adopted the Cap and Trade Regulation, however, we took the advice of the Governor and others who were concerned about the political as well as the economic effects of a rapid transition to an auction, and decided on an auction that would be small enough to have minimal or unnoticeable effect on California business and consumers, but large enough to allow for a meaningful market to emerge.

That's the program design we have been working on the past 3 years. Frankly, any change to that basic policy decision would send its own signal of instability to the many business who have moved here and invested here in reliance on the opportunity they saw in AB32.

There are many arguments against providing 100% of the allowances for free. As the Europeans found when they started their emissions trading system, it's a windfall for companies that don't need them.

There's also a question of fairness. AB32 is intended to reduce California's greenhouse gas emissions in a manner that paves the way for a cleaner, more sustainable economy, and to provide benefits for communities that are already heavily impacted by air pollution.

Easing the transition is one thing; leaving the entire industrial sector outside the arena where every other member of society, from forestry to municipal sewage treatment plants is taking aggressive measures to reduce their emissions is just plain unacceptable.

ARB has gone a long way to make these regulations as simple and palatable as possible, and we will continue to work to make sure that they are as efficient and cost-effective as possible. At this point it's time for CMTA and WSPA and the Chamber to join the many hundreds of businesses that are investing in the fight against climate change instead of fighting AB32.