

# Reporting, Verification, and Enforcement

Program Design Technical Stakeholder Workgroup

June 3, 2008

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Please email questions to [CCPlan@arb.ca.gov](mailto:CCPlan@arb.ca.gov)

# Program Design Stakeholder Meetings

- February 6 Overview and Analytic Approach
- February 29 Scope and Point of Regulation
- March 17 Allocation
- April 4 Offsets
- April 25 Cost Containment
- May 5 Scenarios Workshop
- **June 3 Enforcement/Reporting/Verification**

# Overview of Market-Based Mechanisms

- Cap-and-Trade (C&T)
  - Setting baselines
  - Caps, allowances, and offsets
  - Surrender sufficient allowances and offsets
- Carbon Fee
  - Fee fixed per unit of carbon emissions

# 2007 Mandatory Reporting of Greenhouse Gases Regulation

## – Annual Reporting

- Begin reporting in 2009 on 2008 emissions
- Covers 94% of point source CO<sub>2</sub> emissions

## – Third Party Verification

- Required beginning 2010
- Annual for some facilities, triennial for others
- Verifiers can be in private sector
- ARB accredits verifiers, conducts audits of verifiers and reviews reported emissions

## How Long Should Reporting And Verification (R/V) Periods Be?

- Issue arises when considering longer compliance periods, such as three years
- Should ARB consider annual or shorter reporting and verification periods?
- Emissions reports would be public information

# Advantages/Disadvantages (C&T Approach)

- Advantages:
  - Provide information to market participants on supply and demand conditions
  - Allow rapid price adjustment
  - Prevent “surprises” at end of compliance period
- Disadvantages:
  - More frequent R/V could add compliance costs
    - Data suggest additional costs would be minor

ARB welcomes additional estimates or observations on costs

## Shorter R/V Periods with a Carbon Fee Approach?

- Entity receives no useful market information from more frequent reporting and verification.

# Would Reporting Procedures Have to be Extended to Implement Market-Based Measures?

- Imported electricity and cogeneration
- “Transfer” of GHG and other “point of regulation” issues
- Appropriate procedures for smaller emitters
- Are there other sectors for which quantification methods must be further developed?
- The same issues arise under carbon fee



# Violations and Penalties

- Enforcement and penalties for reporting false or late information (Mandatory Reporting GHG Regulation)
- Cap & Trade
  - Failure to surrender sufficient allowances or offsets to match verified emissions
- Carbon Fee
  - Failure to pay sufficient fees to cover verified emissions

## Potential Penalty Structure Under Cap-and-Trade

- AB 32 enforcement modeled after stationary source penalty structure
  - Violations punishable regardless of intent or location of violator, even out-of-state
  - ARB has authority to compute a daily penalty (HSC 38580(b)(3))
- Payment of penalty would not substitute for submitting sufficient allowances

ARB seeks input on criteria to compute daily penalty

## Could ARB Address AB 32 Requirements in Other Jurisdictions?

- If a California-only cap & trade
  - ARB controls allocation and retirement of allowances
  - “First Deliverer” for electricity imports
- If a regional or national cap & trade
  - ARB could authorize California entities to use non-California allowances or offsets for compliance
- Enforcement actions could be taken for out-of-State violations if, for example:
  - Verifications don’t meet AB 32 standards
  - Verifiers don’t meet California accreditation standards
- Not an issue for carbon fee

## Applying ARB AB 32 Enforcement Authority If Regional Program Develops

- HSC section 38580 enforcement mechanism
  - Violations punishable regardless of intent or location of violator, even out-of-state
- ARB may also prevent problems:
  - Establish memoranda of understanding with other jurisdictions on verifications
  - Require a surety mechanism for allowances or offsets created outside California when used for compliance by California entities

Other options?

## Issue: Potential Manipulation in Credit Trading Markets

- Exchange markets will develop, especially if there are regional or federal programs
- Markets for futures and options or other derivatives may follow
- Should ARB encourage these developments?
- Should ARB play a direct role in these markets or encourage federal regulation?
- Not an issue for carbon fee

# How Should ARB Handle Potential for Market Manipulation?

## Potential Options:

- Create a California-only administrative “market”
- Endorse private markets with federal oversight only, no market oversight role for ARB
- ARB seeks legal market oversight authority
- Creation of a Carbon Trust to stabilize the market by buying and selling allowances and offsets

Other methods or combinations of institutional roles?

## Two Requests

- Focus on Reporting, Verification, and Enforcement (RVE) issues
- Specify if issues you are raising apply to a specific option or all options

# Questions for Stakeholders

- Should reporting and verification periods be shorter than compliance periods?
- What changes need to be made to the Mandatory GHG Reporting Regulation?
- How should ARB set penalties for failure to surrender sufficient allowances or offsets?
- How should ARB implement existing enforcement provisions (sec. 38580) for violations involving out-of state offsets or electricity imports?
- How should ARB contend with potential market manipulation in credit trading markets?