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# AB 32 Implementation Group

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Working Toward Greenhouse Gas Emission Reductions  
And Enhancing California's Competitiveness

December 5, 2007

Clerk of the Board  
California Air Resources Board  
1001 I Street  
Sacramento, CA

**Subject: Comments on the CARB's Draft Mandatory Reporting Regulation**

Dear CARB Board Members and Staff:

The AB 32 Implementation Group is a coalition, which represents companies employing millions of working men and women in California. Our coalition continues to constructively engage in the process of achieving Greenhouse Gas (GHG) emission reductions in a cost effective way under the terms of AB 32 (The Global Warming Solutions Act).

In general we believe that for California's GHG program to be effective the following general principles must guide the overall program:

- 1. Provide Regulatory Certainty**
- 2. Adopt Policies that Keep Jobs in California and Achieve Global Emission Reductions (Leakage)**
- 3. Use Sound Scientific Methods of Review**
- 4. Impose Only Cost-Effective & Technologically Feasible Regulations**
- 5. Promote Innovation and Market-Based Strategies**
- 6. Minimize and Fairly Allocate Compliance Costs**

With the above general principles as a basis, we submit the following comments on the proposed mandatory reporting regulation for adoption by the Board on December 6th. First we would like to applaud the ARB Mandatory Reporting Regulation team for considering our comments of September 6, 2007. Much progress has been made toward making the reporting regulation workable. Below are a number of issues that we hope the Board will to open to addressing. Industry and business representatives have discussed these issues with staff.

**Program Design Issues**

- Enforcement  
The draft regulations are significantly enhanced as regard implementation, compliance and enforcement, however we would encourage clarification of the enforcement section (95107) to ensure compliance without being punitive as has stated in staff workshop presentations.
- De minimus emissions  
We believe that 10,000 ton/yr cap is set too low for it to be useful for both facility and verification purposes. For large facilities such a low cap will make the effective de minimus report significantly below the 3% de minimus target in the draft rule. A 3% de minimus reporting level without a cap would make this rule consistent with the Climate Registry and

with DOE reporting. As a compromise, we recommend a 25,000 ton/yr cap which is more in line with the EU 20,000 ton/yr

- Limit reporting to Direct Emissions

Reporting should only be required of facilities that “in the course of doing business directly emit greenhouse gases” as has been staff’s intent as stated in workshops.

- Verification

We support self-certification for verification of mandatory reporting. At a minimum, if the draft rule creates the option for local air districts to become verifiers, they should comply with the same uniform rules and compliance for all verifiers. We do not support the air districts being the sole verifiers.

- Information and Data Management

We encourage the Board to amend the draft regulation to provide flexibility for data gathering/calculation methodology modifications with Executive Office approval.

We encourage the Board to amend the draft regulation to delete the equity reporting. We believe it adds enormous complexity to reporting, but little to enhance the tracking of actual emissions.

We also encourage the Board to delete the provisions that require facilities to report unverified data. Unverified data provides little to tracking of actual emissions, yet could be inadvertently disclosed to the public with potential negative consequences for both the Board and the facilities,

- Executive Officer Resolution of Verification Issues

We urge the Board to consider an approach that allows facilities to approach the Executive Officer to resolve issues relating to problems with verification, such as equipment breakdowns that prevent complete verification.

### **Interim Certainty for GHG Thresholds and Mitigation Issues Raised by CEQA**

The AB 32 Implementation Group encourages the Board to include in this regulatory package, provisions to insert some interim certainty as regards GHG thresholds and mitigation raised by CEQA lawsuits over the last few months.

Lawsuits by the Attorney General and others are threatening the comprehensive approach to GHG reductions envisioned by AB 32 and are turning GHG reductions into case-by-case, project-by-project negotiations.

We believe that the Board has the authority and opportunity to address these CEQA issues by incorporating CEQA provision in the rule that state that entities not required to report under this rule or projects with emissions under the reporting thresholds are considered “de minimus” for purposes of CEQA. Similarly, the Board should state that for CEQA analysis of projects with net emission under the reporting threshold shall be considered to have less than a significant impact.

Further we encourage the board to support early actions by adding provisions in this rule that clearly state that early actions at facilities may be used or retained for later use as mitigation for GHG emission increases at the facility or at other facilities.

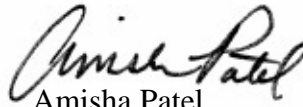
Finally, we encourage the board to have the Executive Office develop a list of feasible mitigation measures that would appropriate for mitigation projects where GHG emissions are deemed to be significant.

We believe the above suggested CEQA actions are appropriate and legal under AB 32 and CEQA and will lead to some level of interim certainty and stability as California's overall GHG program moves forward.

Thank you for considering our comments.



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cc: Board Members  
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