



## INTERNATIONAL CLIMATE CHANGE PARTNERSHIP

August 4, 2006

Ms. Linda S. Adams  
Secretary  
California Environmental Protection Agency  
1001 I Street  
Sacramento, CA 95812-2815

Dear Secretary Adams:

Thank you for the meeting last week to discuss climate change policy and the Administration's working draft of legislation as a replacement for AB 32. The International Climate Change Partnership (ICCP) is a coalition of companies and trade associations committed to responsible participation in the climate change policy process at all levels of government. As I explained to you during our meeting, ICCP believes that climate change regulatory initiatives are best addressed at the national and international level, primarily because of the inherent economic inefficiencies associated with such policies at the state level, and the need to address this global issue in an international framework.

We believe it is highly appropriate to adopt climate change programs that affect public procurement, technology innovation, and education of the public concerning its responsibilities for dealing with the issue. Carbon caps and cap and trade programs, however, are fraught with significant difficulties associated with leakage and the creation of extraordinary economic impacts if applied in too small a market, such as a state economy, negatively impacting consumers and business.

California already has a more effective "climate change" program as a result of its numerous measures for energy efficiency and utilization. This is reflected in the state's low per capita energy consumption and other factors.

Nonetheless, it is apparent to us that some climate change legislation is highly likely to pass, given the governor's support for a market-based program and the legislature's expressed interest in adopting significant portions of the governor's Climate Action Team proposals. It is in recognition of this political reality that we offer these comments on your working draft legislation to replace the currently unworkable AB 32.

Ms. Linda Adams  
Cal/EPA  
Page 2

The Administration's draft is a significant improvement over the current version of AB 32 because it provides some check and balance of the broad regulatory authority given to the California Air Resources Board in the bill as currently drafted. The state Board created by your draft will substantially improve the accountability of the climate change program. Additionally, we appreciate the opportunity for legislative review of the regulations promulgated under this provision and your acknowledgement of the possibility of preemption if and when a similar Federal program is adopted. However, there are several additional issues that should be addressed in the legislation.

The enclosed list is an effort to begin a dialogue on these issues. ICCP believes these measures must be incorporated into any legislated climate program to be implemented by the state. It is our intent to communicate this to the involved legislative leaders as well. Ultimately, we encourage you to remain committed to the principles enunciated on June 26. The Governor should be willing to veto any climate legislation that does not also provide for the economic security of the state. A flawed bill is not necessary at this time, as we understand that the state is already pursuing many of its climate strategies administratively.

Thank you in advance for your consideration of these issues. We look forward to working with you in the weeks and months ahead.

Sincerely,

Kevin Fay  
Executive Director  
International Climate Change Partnership  
2111 Wilson Boulevard, 8<sup>th</sup> Floor  
Arlington, VA 22201  
703-841-0626  
[fay@alcalde-fay.com](mailto:fay@alcalde-fay.com)

Enclosures

Cc: Dan Skopec, Undersecretary, California Environmental Protection Agency  
Anne Baker, Deputy Secretary for External Affairs, California Environmental  
Protection Agency  
Dennis Albiani, Office of Governor Arnold Schwarzenegger

## **Key Issues for Administration's Redraft of AB 32**

ICCP believes the following additional issues must be addressed in any redraft of AB 32.

**Significant emitter** – Neither the current AB 32 nor the working draft defines the significant emitters covered by this program. We believe it is imperative that the initial coverage be limited to entities that emit more than 10,000 tons of CO<sub>2</sub> equivalent annually. This threshold is contained in several pieces of legislation at the Federal level as well as in the current European emissions trading program for determining participant allocations. Entity should be defined at the facility level and limited to operations in California.

**Market-based program** – The current Administration redraft establishes market-based approaches as the prime mechanism for meeting the state's proposed cap on emissions. We believe the program should start with a cap and trade program for the significant stationary emitters, as defined above, and other small emitters can participate by providing offset credits for the program. The benefit of such an approach is that the combination of a cap and trade program for significant emitters, combined with the current transportation regulations, would provide coverage for 65-80% of the emissions baseline in the state. The creation of verified offsets will then ease the regulatory burden for the significant emitters.

Care should also be taken to ensure that whatever units are created in the market-based program are fungible with other state, national, or international trading units. Fungibility allows for the market-based program to realize some economies of scale and economic efficiency not otherwise available in a California-only program.

**Safety valve** – The Administration redraft introduces the notion of a qualitative safety valve. This provision should be strengthened by creating a panel of economic advisers to advise the Board of potential economic downsides of its actions and to recommend either delays in the proposed reduction schedule or the stringency of the targets, or, as a last resort, a quantitative safety valve to reduce compliance costs for the cap and trade program.

**Prohibition of product or technology bans** – The whole basis of relying on market-based programs is to capture economic efficiencies and to avoid disruptive command and control regulations that increase costs to consumers and industry. Climate change programs adopted internationally have focused on emissions reduction efforts and not on technology bans. Language should be inserted to specify that all climate policies should rely on cost-effective market-based programs, including voluntary initiatives, and not on product prescriptive or prohibitive regulatory measures.

**Federal preemption** – Both the Administration’s redraft and the current version of AB 32 reference the possibility of a Federal program coming into existence, and allowing that it “may” be considered as part of compliance with the California program. If a Federal program is enacted, there is little benefit and potential economic detriment for the state to maintain its own program. The preemption language should be revised to indicate that any Federal program that is considered equivalent to or better than the state’s program “shall” preempt the state program. Administration staff have pointed out that the automobile regulations do provide for this type of preemption.

**Technology program** – The Administration’s statements recognize the need for technology, but the redraft fails to implement or provide incentives for a technology program. The state Board should be tasked to recommend a technology research, development and deployment blueprint as well as the development of performance-based standards for implementation. Additionally, the state should require a climate impact assessment for any procurement in excess of \$100,000 to ensure that such procurement considers the climate impact of the activity.