Environmental Law

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Air Board Cap and Trade Workshops Highlight More Details

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Earlier this week the California Air Resources Board (CARB) held three workshops in their continued march toward adoption of a Cap and Trade (CT) program this year. These efforts are being driven by The California Global Warming Solutions Act of 2006, commonly known as AB 32, which requires CARB to adopt regulations that reduce California's greenhouse gas emissions back to 1990 levels by 2020.

The blueprint for accomplishing this fundamental shift is laid out in their adopted Scoping Plan (Plan). The Plan sets up Cap and Trade as a major policy component of reaching the goal.

The topics of the three half-day Sacramento workshops all relate to overall cost but each deals with a very technical, yet vitally important, sub-issue within the CT program itself. Though many details were provided, many questions were still left unanswered.

Workshop 1 - Cost Containment

The focus of this workshop was on policy mechanisms that could be placed within a CT program so that participating industries would not be subjected to "unacceptably high costs." These mechanisms are based in economic theory and rely on market principles. The goal of cost containment is being balanced against the environmental integrity of the program itself. Setting a minimum/maximum price for carbon credits is one example of a policy option.

Workshop 2 - Offsets and Linkage

Offsets are another way to reduce the cost of a CT program by allowing the use of certified additional reductions from places and emissions sources not covered under the CT program itself. The

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questions surrounding this policy choice deal with how to verify the validity of the reduction and whether or not to quantitatively and/or geographically limit inclusion of these reductions in the program. An additional question on the agenda is whether or not to link up with other greenhouse gas programs around the world.

Workshop 3 - Compliance Offset Quantification Methodologies (Protocols)

The final CT workshop of the week dealt with how to complete the reduction accounting needed to secure offsets. These accounting schemes are officially called "Quantification Methodologies" but are commonly known as credit protocols. CARB has previously approved protocols for use with voluntary reductions, but it has to readopt them if they are to be used in the more rigorous CT program. Four protocols were up for discussion: Forestry, Livestock, Urban Forest, and Ozone Depleting Substances.

CARB is sailing in rough waters these days with a new administration looming and a ballot initiative that would essentially stop the core climate programs of CT, Low Carbon Fuel Standard (LCFS) and the Renewable Electricity Standard (RES), and a possible federal preemption. In addition, the Legislature is working to expand the existing 20% Renewable Portfolio Standard for electricity to 33%, thereby superseding ARB's regulatory work on the RES. It is under this scrutiny that these workshops and the policy details were presented.

Notwithstanding these obstacles, the regulatory schedule for CARB has shown no signs of slowing down. It is their intention to adopt these programs prior to the November election, all the while continuing to implement their previously adopted regulations. Therefore, now is the time to engage in a proactive strategy to protect, and even enhance, your bottom line. The potential uncertainty surrounding climate change regulations is even more reason to work with experts that are following these developments on a daily basis.

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