



June 16, 2008

Kevin Kennedy  
Chief, Program Evaluation Branch  
Office of Climate Change  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95812

**Re: APX Comments Regarding Questions Raised at the June 3rd AB 32 Technical Stakeholder Workshop on “Reporting, Verification and Enforcement”**

APX Inc. thanks CARB for the opportunity to submit these comments on questions raised by CARB staff at the June 3, 2008 AB 32 Program Design Technical Stakeholder Working Group Meeting focused on “Reporting, Verification and Enforcement.” We encourage CARB to continue to actively reach out to a wide range of potential market participants, as CARB further develops its market oversight and enforcement concepts and mechanisms – including those entities likely to be regulated and also companies such as ours and others in the financial sector who provide critical market infrastructure.

Before addressing the specific questions CARB staff raised for stakeholder comment at the workshop, APX would like to make a more general comment regarding reporting, verification and enforcement that we believe could be helpful in CARB’s development of policies and procedures in this area.

In addition to developing a system that will accurately report, track and verify the emissions of all capped sources, in a cap and trade system, it will be critical to have a transparent and accountable system to track the issuance, transfer and surrender of emission allowances and credits. From a systems point of view, the reporting and verification of actual emissions is very different from the creation, verification, serialization, tracking, trading and retirement of emission allowances and offset credits. The treatment of allowances and offsets is inherently transactional in nature and will require very different core competencies than the emissions reporting of static time stamped information.

Allowances and offsets are tracked using serial numbers; both have market value; both are traded and transacted (subject to CARB’s final decision); and both are retired. Further, market oversight requirements may require the high volume, high availability infrastructure of financial markets, including:

- The potential tracking of transaction prices, volumes, positions, trading limits or position limits;
- Tracking of intermediate transactions between counterparties;
- The potential need to report exchange transactions;
- Forensic reporting and full audit trail capabilities for every transaction for the lifetime of the program;

- The ability to investigate the possibility of fraud or manipulation in the marketplace via queries and reports of historical information.

To be sure, offset and allowance tracking systems must work hand in hand with emissions reporting systems to ensure the integrity of GHG cap and trade markets. We have attached a chart drafted by APX to delineate some of the differing needs and functionalities of these systems that might prove useful to CARB staff.

**Question 1: Should reporting and verification periods be shorter than compliance periods?**

APX supports more frequent reporting, such as monthly or quarterly reporting. Shorter time periods for reporting will lead to greater transparency and more up-to-date information, and less opportunities for market manipulation. Having access to up-to-date information on market conditions is important to enable capped and other market participants to forecast allowance demand and to plan for compliance. Such information includes facility and program-wide emissions, allowance and credit prices and volume of trading. The timely availability of this information provides greater confidence and certainty in the market and allows regulated entities and regulators to make more informed decisions. Greater transparency also will help build important public support for the workings of these new markets. Finally, we believe that through automation and information technology, regular reporting of market information can be implemented so that it is no more costly or burdensome than annual reporting.

**Question 3: How should ARB set penalties for failure to surrender sufficient allowances or offsets to match verified emissions?**

While APX does not have a specific view regarding the criteria or formulas to be used in computing penalties, APX does believe that penalties for non-compliance should “make the atmosphere whole” (e.g., result in the required emission reductions over time) and must be set at a level that is substantially higher than the market price of allowances. Otherwise, capped entities may choose to buy their way out of compliance rather than purchase allowances or offset credits. For example, to ensure that the costs of non-compliance are higher than the costs of compliance, and that the environmental target is not breached, the US Acid Rain program imposes a significant financial penalty for each ton of excess emissions and deducts the equivalent quantity of allowances from the entity’s allocation in the subsequent compliance period. Under the NOx budget program, the non-compliance penalty is a deduction of allowances at the rate of 3:1 for each ton of excess emissions.

**Question 5: How should ARB contend with potential manipulation in credit trading markets?**

APX believes that evolving GHG markets will likely require greater transparency and greater market oversight than prior air markets because the scale and value of the GHG markets is projected to be much larger and impact many sectors of the economy. Establishment of an oversight body and systems to monitor market conditions would provide a mechanism to identify and respond to attempts at market manipulation or to intervene in the event of unacceptable allowance prices.

Thank you again for the opportunity to submit these comments. APX looks forward to our further participation in the AB 32 stakeholder processes. Please call us if you have any questions at 408-512-2100, or via email at [gguzy@apx.com](mailto:gguzy@apx.com) or [rmusier@apx.com](mailto:rmusier@apx.com). Thank you.

Sincerely,

Gary S. Guzy  
General Counsel  
APX, Inc.

Reiner Musier  
Vice President and CMO  
APX, Inc.

Attachment