

April 26, 2011

The Honorable S. Joseph Simitian  
California State Senate  
Chair, Senate Environmental Quality Committee  
California State Capitol, Room 2080  
Sacramento, CA 95814

**Re: SB 246 (de León) – Oppose**  
**Hearing: May 2**

Dear Senator Simitian:

We oppose SB 246 to impose new requirements on the development and use of compliance offsets in a cap-and-trade program under AB 32.

**Offsets are important to the cap-and-trade program**

An offset is a unit of greenhouse gas emission reduction that can be created, traded and surrendered to ARB in partial fulfillment of an obligation to hold emission allowances under the cap-and-trade regulation. Each offset must satisfy protocols adopted by the ARB to ensure they represent additional, permanent and verifiable reductions in GHG. A robust supply of offsets will help minimize the costs of a cap-and-trade program and lower the risk of economic and emissions leakage to other states and countries.

This is what CARB said about the importance of offsets in July 2010:

“ARB recognizes that emission reductions from offsets can reduce the cost of compliance in a cap-and-trade program. Offsets are greenhouse gas emission reductions from sources outside the cap-and-trade program. Because offsets can cost less than some potential emission reductions in capped sources they can reduce the cost of achieving the overall emissions target. Economic analyses, including ARB’s recent analysis, underscore the effectiveness of offsets as a cost control mechanism, even when offsets are used in limited quantity as proposed by ARB.”

In some models (most notably done by USEPA, Center for Resource Solutions and Charles River Associates), cap-and-trade program cost reductions range from 40% to 80% depending on the model and the restrictions (or lack thereof) on the use of offsets.

**SB 246 is unnecessary – ARB standards will ensure only high quality offsets are allowed in the program**

ARB recognizes the importance of offset quality. In July 2010 they said:

“To maintain the environmental integrity of the cap-and-trade program, emission reductions from offsets must be high quality. To assure quality, ARB is:

- Conducting analyses to ensure that compliance-eligible offset credits meet all AB 32 requirements.
- Ensuring the cap-and-trade program meets all California Environmental Quality Act requirements.
- Taking a conservative approach to ensure that all offsets used in the program are real, additional, permanent, verifiable, and enforceable.
- Proposing that all emission reductions from offset projects be verified by third-party verifiers accredited by ARB. “

**Some SB 246 requirements are either unnecessary or excessively burdensome**

A requirement that an offset “does not harm or contribute to significant adverse effects” is either redundant, or vague and potentially burdensome to the extent it departs from the standard established in CEQA. Compliance with CEQA should be sufficient to satisfy a requirement that offsets not harm the environment.

An “independent review of all third-party claims before a compliance offset is credited” imposes a new process that is unlimited and undefined. It would create additional uncertainty and would delay offset development. The ARB approved protocols must be followed to create a valid offset, and there is no showing that current processes are insufficient to satisfy ARB that each offset is acceptable for compliance purposes.

Other SB 246 requirements are redundant and unnecessary. ARB will have authority over offset use in the program and will ensure that offsets are used by only one party at a time and permanently retired when appropriate.

**ARB has sufficient legislative direction and authority to ensure only valid offsets are used in the cap-and-trade program**

ARB has sufficient direction in existing law to develop offset protocols and requirements or compliance offsets. There is no showing that the offset rules are in need of improvement by legislation such as SB 246.

Sincerely,

California Manufacturers & Technology Association  
Building Owners & Managers Association of California  
California Business Properties Association  
California Chamber of Commerce  
California Grocers Association  
California League of Food Processors  
Commercial Real Estate Development Association, NAIOP of California  
International Council of Shopping Centers  
Western States Petroleum Association  
Wine Institute

cc: The Honorable Kevin de León, Senator  
Honorable Members, Senate Environmental Quality Committee  
Mr. Randy Pestor, Consultant, Senate Environmental Quality Committee  
Mr. Lance Christensen, Environmental Quality Consultant, Senate Republican Caucus