

July 18, 2008

Client-Matter: 24963-036

BY E-MAIL

California Air Resources Board
The California Climate Action Registry
ICLEI-Local Governments for Sustainability

Re: Comments by the County of Los Angeles on the Draft Local Government Operations Protocol

On behalf of the County of Los Angeles ("County"), we submit these comments on the Draft Local Government Operations Protocol. The County appreciates the significant efforts undertaken by the State's Climate Action Team and all of the State agencies that are working to implement AB32. In particular, the County would like to thank the California Air Resources Board ("CARB"), Local Governments for Sustainability ("ICLEI"), and the California Climate Action Registry ("CCAR") in developing the Draft Local Government Operations Protocol (the "Protocol"). However, the County believes that certain matters must be addressed or clarified and therefore submits the following comments and questions below for CARB's consideration.

I. Protocol Complexity and Local Governments' Ability to Report

The protocol is extremely thorough. However, because it is so thorough, it is also very complicated and not easy to initially comprehend. It seems very similar, if not almost identical, to the CCAR Protocol, which members can join for an annual fee, in exchange for which members receive support and assistance from the CCAR in completing a certified greenhouse gas ("GHG") report. Likewise, local governments ("LGs") may join ICLEI for an annual fee and receive similar technical support.

The similarities between the protocol and CCAR and ICLEI raise the following issues:

- Protocol Section 15.2 (p. 131): The Protocol states that CARB "encourages" LGs to use the Protocol, and the use of the Protocol has been widely understood to be voluntary for LGs. However, the Protocol also states that "[CCAR] participants meeting the [LG] definition are required to follow the guidance in this Protocol when developing greenhouse gas emissions inventories for its operations." The County does not believe that CCAR participants should be required to use the Protocol, when it is voluntary for non-CCAR participants.

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- Similarly, the County's level of participation, and likely the participation (or lack thereof) by other LGs has been premised on the presumption that Protocol reporting will remain a voluntary activity. The County is concerned that CARB may be contemplating circumstances under which certain LGs may be required to report—for example, local governments above a certain population or budget threshold. The County recommends that if CARB anticipates that it will mandate compliance with the Protocol by LGs in the future, that it only do so after another thorough series of workshops and comment periods, and not through only a rulemaking procedure.
- Protocol Section 15.6 (p. 138): As has been voiced at the workshops, many LGs do not have the funding or the staff time to join CCAR or ICLEI or to develop ongoing greenhouse gas reports and greenhouse gas reduction strategies. The County understands that the Protocol will not have the revenue stream from dues payments that CCAR and ICLEI have. Nonetheless, given the complexity of the Protocol, the County recommends that CARB, like CCAR and ICLEI, provide support and assistance to help and encourage LGs to complete the Protocol reports. It appears that CCAR might be available to provide some technical assistance. CARB should consider establishing a LG clearinghouse, through CARB, another state agency, CCAR or ICLEI, to specifically provide technical support for LGs to comply with the Protocol requirements without having to use LG general funds.
- The County looks forward to the regional protocol development and is actively working to develop a regional collaboration to address public agency resource needs and development of a regional report and strategy. The County hopes that technical support and resources will similarly be made available for regional collaborations as they may be for individual local governments. This would be especially useful in Los Angeles County which includes a large unincorporated area and 88 cities.

II. Recognition of Local Government Policies and Programs

The Protocol recognizes the role of LGs in attaining AB32 goals: “[LGs] have the ability to influence community-scale planning efforts and have direct control over emissions resulting from municipal operations...” (Protocol section 14.2.1.) It has been stated often that the State recognizes the importance of the role of LGs and that programs already undertaken by LGs to reduce GHGs will be recognized and valued.

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The Protocol makes it clear that it is focused only on the reporting of GHG emissions, and is not “not designed for quantifying the reductions from GHG mitigation projects that will be used as offsets,” nor is it “suitable for calculating reductions to be used as offsets in a voluntary or mandatory GHG reduction system.” (Protocol, page 9.) Despite these disclaimers, the Protocol is obviously part of CARB’s broader plan to reduce emissions to achieve AB32’s goals. This interplay between the Protocol and the role LGs can have in reducing emissions raises the following issues:

- Protocol, page 9: Even if the Protocol is not intended to be used for quantifying the reductions from GHG mitigation projects that will be used or for calculating reductions to be used as offsets in a voluntary or mandatory GHG reduction system, the methodologies should be consistent. Given the difficulty that an LG may have with learning how to report under the Protocol, more LGs will be likely to participate in the Protocol and in mitigation projects if the methodologies are consistent.
- Even though the Protocol recognizes the important role of the LGs, it does not address the critical role and benefits provided by LGs’ community-wide development of ordinances, codes and standards, and through community outreach and education and in partnership with utilities. The County recommends that this be addressed either in the Scoping Plan or in other GHG reporting protocols.
- Section 15.3 (p. 135): Under the Protocol, LG programs which reduce GHG emissions are only to be described in a narrative. There is no methodology or standard for recognizing, certifying or quantifying these benefits, either in comparison to the emissions that occurred previously or that would have occurred but for the programs. Such a methodology and recognition should be developed either in this or another protocol.

III. Direct (Scope 1) and Indirect (Scope 2) Emissions

The Protocol implies that Scope 1 (direct) and Scope 2 (indirect) emissions attributable to electricity usage will balance out—in other words, the electric utilities’ direct emissions in providing electricity will equal the end-users’ indirect emissions through the use of electricity. (Protocol section 4.5.) As discussed below, this does not seem consistent with addressing and recognizing LG programs to reduce GHGs such as the use of distributed generation or the use of non-GHG producing renewable resources.

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- Protocol section 6.3 (p. 46): As recognized in the draft Scoping Plan, a combined heat and power (“CHP” or cogeneration) plant reduces overall emissions, whether direct or indirect, when compared to the alternative of separate electrical and steam supplies. The Protocol stipulates that if an LG installs a CHP plant, the LG’s indirect emissions (through less electricity use) will be reduced but its reportable direct emissions will increase (through stationary combustion at the LG site). Yet, under the Protocol, the LG will only be able to report the benefit of the overall emissions reduction in the report narrative, which will not be quantified and thus, will be difficult to calculate and ascertain. The public (particularly the LG’s residents) and CARB will most likely focus on this purported increase in direct emissions, and will not readily identify the fact that the CHP plant constitutes an overall reduction in the LG’s (and the state’s) GHG emissions. The Protocol should include a mechanism that allows the overall emissions reductions to be easily quantified and identified.
- The County further notes that the draft Scoping Plan would set up a perverse disincentive for the construction of CHP units, as the resident utilities would receive credit for reductions in Scope 1 emissions, while the owner of the facility would receive no credit, and (under the Protocol) have to report an increase in its Scope 1 emissions. If CARB truly believes that CHP should be more broadly deployed, CARB should address these twin disincentives in a coordinated manner.
- Protocol section 6.2.4 (pp. 45-46): Scope 2 emissions for electricity usage should only be based on an LG’s consumption of electricity whose production actually resulted in GHG emissions. However, the Protocol would require an LG to base its Scope 2 report on all electricity usage, including electricity purchased from renewable resources. This is illogical, and would undercut the reliability of reports issued under the Protocol. In fact, any LG that chooses to obtain a large percentage of its needs from renewable resources (either through community choice aggregation or a direct transaction) could decide against submitting a report under the Protocol, as the report would be so inaccurate. Similarly, the Protocol would not provide any credit for renewable energy credits (“RECs”). Instead of encouraging LGs to reduce Scope 2 emissions, this inaccurate methodology will effectively discourage the use of renewable resources and RECs. The purchase of green power or RECs must be appropriately considered a reduction in indirect emissions.

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- Protocol Sections 6.2.4 (p. 45) and 13.1.2.4 (p. 113): The Protocol states that an appropriate accounting framework is necessary before efficient CHP, renewable power, green power and RECs can be used to reduce Scope 2 emissions. This deflection to some future framework is ambiguous and seems particularly odd given the emphasis placed by the draft Scoping Plan on CHP and renewables in meeting AB32 goals. Furthermore, it is not clear why this particular area should be so complicated or controversial. The final Protocol should incorporate a mechanism that counts the GHG emissions of GHG emitting uses, and not phantom emissions from the use of efficient CHP, renewable power, green power and RECs.

IV. Additional Reporting Details

Protocol Sections 4.1 (p. 25) and 4.7 (p. 28): The Protocol suggests LGs report Scope 3 emissions, which essentially are emissions resulting from activities over which an LG will have no financial or operational control. Given the complexity involved with Scope 1 and Scope 2 reporting, the County believes that very few LGs will attempt to report Scope 3 emissions with any degree of accuracy. However, there could be increased reporting if an LG had an incentive available for reducing Scope 3 emissions. This points out again the need for coordination between the Protocol and other CARB initiatives.

Protocol Section 6.2.1 (pp. 40-41): The Protocol describes how to select and use utility-specific emission factors. However, the Protocol notes that “it is not yet standard practice for utilities to calculate and verify company-specific electricity GHG emission factors.” It does not make any sense that the State’s utilities, who are probably some of the highest GHG emitters, will not be reporting this data to CARB prior to the date when LGs will report their own emissions. Given their operational and institutional advantage, and the recovery of costs of compliance in rates, the State’s utilities should be able to easily provide this emissions information upon an LG’s request, especially on a sector basis (e.g., street lighting, buildings, wastewater treatment). The County recommends that CARB work closely with the utilities to make this information available in an easy to use format.

V. Baseline and Adjustments

Sections 14.2.2 (p. 129), 15.4.1 (p. 136) and 15.4.2 (p. 136): The Protocol discusses whether to establish a baseline, and whether, when and how to adjust the baseline to reflect structural or other changes (presumably including required growth to provide services, such as additional buildings, resources and operations). However, the Protocol does not address how to

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establish a baseline. Given that the baseline will likely be the most difficult task for LGs in the Protocol reporting, the Protocol and/or CARB should provide substantially more assistance in this area.

Protocol Section 15.4 (p. 135): The Protocol indicates the first full year for which information and records are available will constitute that LG's baseline year. The protocol also provides information describing how an LG's baseline may be modified for activities such as mergers, acquisitions, in-sourcing, outsourcing and improved GHG accounting. However, the Protocol then states that a baseline should not be adjusted for organic growth, which include an increase in population and construction of facilities or buildings.

The County believes that CARB should reconsider this directive and allow baselines to be adjusted to reflect growth in population and the commensurate increase in facilities and services. As an example, the County's new capital projects program is on the order of several billion dollars per year to develop new facilities. This means greater direct and indirect emissions will be reported. This growth obscures any progress the County can make through energy efficiency projects in existing buildings and other efforts. These dynamics need to be correlated in the baseline and in future years reporting. Otherwise, and especially for any LG that anticipates substantial growth in the near future, it may make sense to delay initial reporting under the Protocol to accommodate anticipated growth and include that growth in the baseline.

VI. Conclusion

The County wishes to thank CARB, ICLEI, and the CCAR for the opportunity to review the Draft Local Government Operations Protocol and appreciates their effort in preparing it.

Sincerely,

/s/

Randall W. Keen