

RESOLUTION NO. 10-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
LANCASTER, CALIFORNIA, REQUESTING  
CONSIDERATION OF SUSPENSION OF IMPLEMENTATION  
OR REVISION OF THE CALIFORNIA GLOBAL WARMING  
SOLUTIONS ACT (AB 32 OF 2006)

WHEREAS, the California Legislature adopted the California Global Warming Solutions Act, commonly referred to as AB 32, in 2006 (Health & Safety Code §§38500 et seq.); and

WHEREAS, AB 32 aims to reduce California's greenhouse gas emissions (GHGs) to 1990 levels by 2020 (Health & Safety Code §38550) and to 80 percent below 1990 levels by 2050; and

WHEREAS, The California Air Resources Board (CARB) is the government agency charged with determining how the AB 32 goals will be reached (Health & Safety Code §38510); and

WHEREAS, On June 26, 2008, CARB released its AB 32 draft "scoping plan" describing the measures that will be used to reach AB 32's GHG reduction goals for 2020; and

WHEREAS, the scoping plan aims to reduce California's GHG emissions by 169 million metric tons of carbon dioxide equivalent (MMTCO<sub>2</sub>E) thru a variety of strategies, including sector-specific regulations, market mechanisms, voluntary measures, fees, incentives and other policies and programs; and

WHEREAS, on December 12, 2008 the scoping plan was finalized with an effective date of 2012 ([http://www.arb.ca.gov/cc/scopingplan/document/adopted\\_scoping\\_plan.pdf](http://www.arb.ca.gov/cc/scopingplan/document/adopted_scoping_plan.pdf)) ; and

WHEREAS, as of November 19, 2009 CARB has passed 12 of 30 measures identified in the scoping plan, including 9 of the early action measures identified in the scoping plan (<http://www.arb.ca.gov/board/books/2009/111909/09-9-4pres.pdf>) ; and

WHEREAS, a variety of scoping plan measures are currently under development including but not limited to Greenhouse Emissions Cap and Trade, Zero Emission Vehicles, and Renewable Electricity Standards; and

WHEREAS, USEPA's Mandatory Greenhouse Gas Reporting Rule (74 FR 56260, 10/30/2009) has potential conflicts in both its implementation and with CARB's regulation requiring GHG reporting (17 CCR §§95100-95133); and

WHEREAS, USEPA's the Endangerment & Cause or Contribute Finding for Greenhouse Gasses under Section 202(a) of the Clean Air Act (74 FR 66496, 12/15/2009) and the proposed Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule (74 FR 55292, 10/27/2009) may result in both direct and indirect conflict with CARB's existing and proposed regulations under AB32; and

WHEREAS, most air districts in California do not have delegation from USEPA to implement and enforce the Prevention of Significant Deterioration program which will hamper any local efforts to coordinate such rules with existing and proposed regulations under AB32; and

WHEREAS, such regulatory and potential legislative enactments may supersede or severely impact the ability of CARB and local air districts to implement and enforce regulations adopted pursuant to AB 32; and

WHEREAS, The City of Lancaster is a City with a population of approximately 145,000; and

WHEREAS, The City of Lancaster is located within the Mojave Desert Air Basin and the Antelope Valley Air Quality Management District (AVAQMD); and

WHEREAS, the District has been designated as nonattainment for the national ambient air quality standards (NAAQS) for Ozone (40 CFR §81.305) and nonattainment for state ambient air quality standards (SAAQS) for Ozone; and

WHEREAS, the Mojave Desert Air Basin and the AVAQMD has been identified by CARB pursuant to H&S Code §39610 as overwhelmingly impacted by transported air pollution from the South Coast and San Joaquin Air Basins; and

WHEREAS, without such transported air pollution the AVAQMD would rarely, if ever, exceed the NAAQS or SAAQS; and

WHEREAS, areas designated nonattainment are mandated under the provisions of the Federal Clean Air Act (FCAA) to require pursuant to New Source Review (NSR) rules, Best Available Control Technology (BACT) and offsetting emissions reductions (Offsets) on major new or modified stationary sources of those nonattainment air pollutants and their precursors (42 U.S.C. §§7502(c)(5), 7503) regardless of whether or not the area so designated has any control or not over the pollution causing the nonattainment finding; and

WHEREAS, the recently proposed revisions to the national ambient air quality standards for ozone (75 FR 2938, 1/19/2010) will require even more new or modified stationary sources of air pollution to use BACT and obtain Offsets; and

WHEREAS, the AVAQMD due in part to the limited number of existing sources of air pollutants and the overwhelming impact of transport has few if any available emissions reductions available to provide such offsets and

WHEREAS, there is a severe jobs/housing imbalance in the jurisdiction of the AVAQMD; and

WHEREAS, over 63,000 residents of the AVAQMD commute to jobs outside the jurisdiction resulting in substantial emission of both criteria pollutants and their precursors as well as GHGs; and

WHEREAS, location of new facilities and expansion of existing facilities would be one potential method of reducing the average vehicle miles traveled for residents and thus both criteria pollutant and GHG emissions within the AVAQMD; and

WHEREAS, without recognition of the impact of transported air pollution upon either the designation itself or upon the NSR rules the location of new facilities and the expansion of existing facilities becomes virtually impossible within the AVAQMD; and

WHEREAS, the requirement to utilize BACT and Obtain offsets creates a barrier to new facility location and expansion of existing facilities within the AVAQMD; and

WHEREAS, the current unemployment rate within the AVAQMD is estimated to be 17%; and

WHEREAS, the lack of new and expanding facilities will further weaken the economy of the MDAQMD as well as result in further pollution of both criteria and GHGs as residents commute greater distances to obtain work; and

WHEREAS, control of Oxides of Nitrogen (NO<sub>x</sub>) may, due to interactions in the atmosphere, increase the levels of methane a potent GHG (<http://www.agu.org/pubs/crossref/2008/2007J D009162.shtml>); and

WHEREAS, California also has a renewable energy mandate for public utilities; and

WHEREAS, there are currently at least 12 renewable energy projects currently under consideration by the California Energy Commission in the desert areas of Southern California ([http://www.energy.ca.gov/sitingcases/all\\_projects.html](http://www.energy.ca.gov/sitingcases/all_projects.html)) all of which have environmental review issues including but not limited to air quality issues; and

WHEREAS, failure to license and construct renewable energy projects will have an impact upon attainment and maintenance of the NAAQS for Ozone and other pollutants as well as upon reductions of GHG emissions; and

WHEREAS, SB 39 of 1989 requires the diversion of municipal waste from landfills;

WHEREAS, one of the primary methods of diverting green waste from landfills is composting which in and of itself produces GHGs; and

WHEREAS, these and other existing and proposed regulations result in an overall regulatory structure that is inconsistent and confusing making it virtually impossible or incredibly slow to start any new large scale projects within the AVAQMD (and indeed in California overall) at a time where California infrastructure and its economy are in most need of refurbishment; and

WHEREAS, the existing and proposed regulations and unclear guidelines will also make it more difficult for smaller, pollution transport impacted air districts like the AVAQMD, to properly implement and enforce the regulations.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF LANCASTER, STATE OF CALIFORNIA, THAT:

Section 1. The Lancaster City Council requests a suspension of the implementation of some, if not all, the regulations promulgated under the California Global Warming Solutions Act (AB 32 of 2006) until such time as the legal and regulatory inconsistencies can be resolved; and

Section 2. that such suspension be continued until the pending Federal actions are clear enough such that their impact upon regulations promulgated pursuant to AB 32 may be more accurately assessed; and

Section 3. that the California Air Resources Board and other applicable state agencies examine the impact of the regulations promulgated pursuant to AB 32 and for potential direct and indirect conflict with other existing regulations at both the State and Federal level including but not limited to the potential for gains in one area to jeopardize progress in another; and

Section 4. that the California Air Resources Board and other applicable state agencies examine the overall economic impact of the regulations promulgated pursuant to AB 32 and their interaction with other existing regulations with emphasis upon the potential for job and other economic activity “flight” from California.

PASSED, APPROVED and ADOPTED this 27<sup>th</sup> day of April, 2010 by the following vote:

AYES: Council Members: Crist, Mann, Marquez, Smith, Mayor Parris

NOES: None

ABSTAIN: None

ABSENT: None

ATTEST:

APPROVED:

\_\_\_\_\_  
GERI K. BRYAN, CMC  
City Clerk  
City of Lancaster

\_\_\_\_\_  
R. REX PARRIS  
Mayor  
City of Lancaster

STATE OF CALIFORNIA            }  
COUNTY OF LOS ANGELES       }ss  
CITY OF LANCASTER             }

CERTIFICATION OF RESOLUTION  
CITY COUNCIL

I, \_\_\_\_\_, \_\_\_\_\_ City of Lancaster, CA, do hereby certify that this is a true and correct copy of the original Resolution No. 10-20, for which the original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(seal)

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