

California Council for Environmental and Economic Balance

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April 4, 2014

Chairman Nichols and Members of the Board
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Via email

RE: Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms

Dear Chairman Nichols and Members of the Air Resources Board:

The California Council for Environmental and Economic Balance (CCEEB) is a non-partisan, non-profit coalition of business, labor, and public leaders that advances strategies for a strong economy and a healthy environment. CCEEB appreciates the work the California Air Resources Board (ARB) has completed since the adoption of the California Cap-and-Trade Program (Cap-and-Trade). We would also like to thank you and your staff for being open and accessible to our membership as this program develops.

Section 95830(f). Penalties Should Be Proportionate

In connecting proposed language in Section 95830(f)(3) with existing text in Section 95921(g)(3), ARB has created a disproportionate penalty for what may be an inadvertent error or omission by the registered entity. This amendment suggests that if changes to any of the information required by Section 95830(c) are made and an entity does not notify ARB within 30 days, the entity could have its registration revoked or suspended, which would result in a requirement to voluntarily retire or sell all of its compliance instruments contained in the holding account. For 2015, the holding limit is approximately 11.7 million allowances. The sale or voluntary retirement of nearly 12 million allowances has the potential to severely distort the compliance market, increase all market participants' compliance costs, and undermine the success of the Cap-and-Trade program. This penalty is extreme and should be removed from the regulation.

Section 95912(d)(5). ARB Should Permit Minor Changes to Auction Application Information

While CCEEB appreciates the changes to Section 95912(d)(5), the language contained in the proposed amendments could still bar an entity from participating in an auction if any changes are made to the information provided in an entity's auction application within 30-days of an auction. CCEEB recognizes that Section 95912(d) is intended to facilitate effective settlement of the auctions and support market monitoring, and is not intended to be overly burdensome. CCEEB proposes that 95912(d)(5) be further

tailored to remove the possibility that changes beyond the entity's control could jeopardize auction participation. Specifically, a change to an item identified in the auction attestation, such as the opening of an investigation, is beyond the entity's control and such change should not bar an entity from participating in an action. Moreover, such a change does not impede ARB's ability to settle the auction or monitor the marketplace for attempted manipulation. CCEEB suggests the following minor revisions to Section 95912 (d)(5) to achieve this objective:

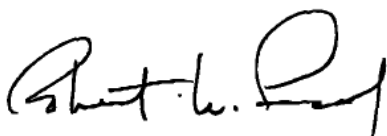
An entity with any changes to the auction application information listed in subsection 95912(d)(4)(A)-(D) or subsection 95912 (d)(4) (F) within 30 days prior to an auction, may be denied participation in the auction. For the purposes of changes to indirect and direct corporate associations, this section only applies to those corporate associates with entities registered in the tracking system.

ARB Should Clarify the Effective Date of Regulatory Changes

Due to the extensive number of changes and new reporting requirements that may be required of entities subject to the Cap-and-Trade Regulation, many of which pertain to auction participation, ARB should clarify the effective date of the new regulation and clearly communicate to stakeholders which auction will be subject to the new requirements. Clarification of this information will provide covered entities and other market participants regulatory certainty and will facilitate compliance with the amended regulation.

Thank you for considering our comments. If you wish to discuss this matter further, please contact Bob Lucas at 916-444-7337.

Sincerely,



Robert W. Lucas
Climate Change Project Manager



Gerald D. Secundy
President

cc: The Honorable Jerry Brown, Governor, State of California
Nancy McFadden, Executive Secretary to Governor Brown
Cliff Rechtschaffen, Senior Advisor to Governor Brown
Matthew Rodriguez, Secretary, California Environmental Protection Agency
Members, California Air Resources Board – c/o Charlyn Frazier, Board Member Liaison
Richard Corey, Executive Officer, ARB
Edie Chang, Deputy Executive Officer, ARB
Steve Cliff, Assistant Division Chief, ARB
Jackson Gualco, The Gualco Group, Inc.