



# Carbon Venture Partners

Palo Alto | New York | Houston | San Francisco

August 2, 2013

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Air Resources Board  
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95812-2815

**Subject: Comments on Draft Amendments to the ARB Cap and Trade Rules**

## **Requests for Clarification**

### **Section 95802. Definitions**

p. 42 (227) We recommend ARB clarify the intent of the change in definition in 227. The current language as written is confusing and reads as a double negative. Could this wording be clarified to indicate what is intended?

p. 51. (YYY) There are two entries for a definition under (YYY). A renumbering is needed.

p. 51. (YYY) The first definition is for the “True up allowance amount”. We find the revised definition confusing and recommend clearer language could be used in this amendment.

p. 59. Section 95812 (f) Facility closure. We have the following questions that we recommend be addressed: Will the entity be able to sell the free allowances on consignment? How will leakage be addressed (if the facility moves out of state)? What would happen if the facility were moved within California and at the new site the entity was able to use more advanced technology to reduce GHG?

p. 64. Section 95830 (b)(4). This section contains a requirement of a limited waiver of sovereign immunity. What form of evidence is needed by the ARB? We recommend that this be clarified.

## **General Comments on Amendments to the Rule**

### **1. CHP and Universities/Public Service Facilities**

We support the exemption for university covered entities and public service facilities for the first compliance period under section 95852(j) and under Section 95870(f) Allocation to University Covered Entities and Public Service Facilities.

For the second and third compliance periods we support the allocation of allowances to these facilities. We also support the provisions that require reporting on the use of the allowance value by these facilities. This encourages these facilities to develop direct emissions reduction projects that are to their benefit. This will provide an incentive to these facilities to reduce their onsite fuel use to reduce their direct GHG emissions. ARB’s approach will also provide an incentive to these facilities to reduce their indirect GHG emissions through the reduction of onsite electricity use.

We are assuming that each university or public service facility will also have the opportunity to develop compliance offset projects as they see fit, and recommend that this be clarified by the ARB.

## **2. Cost Containment**

At the public workshops held by ARB on June 25 and July 18, the Joint Utility Group (JUG) proposed several cost containment options for ARB to consider. Not all of these recommendations are currently incorporated into the draft amendments to the cap and Trade rule at this time. We note that ARB has stated several of these are still under consideration.

CVP supports two of these recommendations by the JUG:

- a) *Allow compliance entities to carry over the unused portion of the 8% offsets restriction.* Currently ARB rules limit compliance entities to the use of offsets to 8% of their annual compliance obligation. JUG recommended that “ARB allow compliance entities to carry over any unused portion of their 8% offset usage limit to subsequent compliance periods.” In case compliance offsets are not available in one compliance period, on behalf of the JUG, PG&E requested that ARB enable compliance entities to use more offsets in later compliance periods, when offset supply may increase due to the approval of new protocols, higher prices, or more developer experience. The ability to use a larger number of offsets later in the program would also help covered entities satisfy their compliance obligations at a lower cost, and could potentially lower market prices and volatility in later compliance periods when allowance supply is tighter. CVP agrees with this viewpoint and supports the JUG recommendation to allow compliance entities to carry over the unused portion of offsets to subsequent compliance periods.
- b) *Address constraints imposed by the offsets holding limit.* On the JUG’s recommendation to increase the level of offset usage, we agree with members of the JUG. We recommend that the offsets holding limit of 8% be relaxed to allow a greater percentage of offsets to be used over the course of the program. Our specific recommendation is that Section 95854 be amended to increase offset limits to 15% in the second compliance period and to 25% for the third compliance period. This will allow more completely for the most cost effective measures to be used to meet the obligations of compliance entities.

## **3. Waste-to-Energy (WTE) facilities**

Section 95851(d) allows Waste-to-Energy (WTE) facilities to be exempt for first compliance period. For Waste-to-Energy facilities, ARB has included eligibility requirements for exemption (from capped entity obligations) in the first compliance period (2012 to 2014). We are in full support of this exemption as stated in revisions to the regulation in Section 95851(d) on page 93 of the discussion draft.

We support extending the exemption in the second and third compliance periods as a partial exemption. This could be calculated based upon the methane avoided (from not landfilling the fuel materials) less the GHG emissions produced from the WTE process. We submit that the fuel value of the waste materials should be considered as well. For example, if the fuel is waste MSW (including plastic) this fuel is currently assigned a GHG emission factor as a fossil-fuel derived fuel. Thus, MSW is assigned an emissions factor that includes no mitigating factors for the beneficial use of waste as a fuel.

We recommend that additional consideration be given by ARB to waste materials as fuels and feedstocks (for capped entities). We recommend that this consideration should not encourage additional waste generation but incentivize the repurposing of waste materials as a substitute for fossil fuel in energy generation (and in the future, possibly as a substitute material for virgin materials in other processes).

We understand that ARB is engaged with CalRecycle in a study of waste management to reduce GHG emissions. We hope these topics will be fully considered.

We appreciate the opportunity to provide these comments. If there are any comments or questions, please do not hesitate to contact me at: [vevans@carbonvp.com](mailto:vevans@carbonvp.com) or at 415.426.7864.

Sincerely,  
/sgd

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