

July 9, 2013

**Comments of the Independent Energy Producers Association on
CARB's Cap and Trade Program Workshop on Cost Containment, Compliance
Requirements and Public Information Sharing, Convened June 25, 2013**

The Independent Energy Producers Association (IEP) submits these comments on the California Air Resources Board (CARB) Cap and Trade Program workshop convened June 25, 2013 regarding Cost Containment, Compliance Requirements, and Public Information Sharing. In terms of addressing each of these “market redesign” issues, IEP’s comments are structured around a few “guiding principles” for CARB to consider when evaluating each of the proposed options.

- I. Cost Containment Mechanisms in the Cap and Trade Program Should Maintain Competitive Neutrality and Provide Obligated Entities a Sense of Regulatory Certainty.** The CARB Board Resolution 12-51 directs the CARB to develop a proposal for incorporating additional cost containment mechanisms into the program to ensure that allowance prices will not exceed the highest price tier of the Allowance Price Containment Reserve (APCR) while maintaining the environmental objectives of the cap and trade program.¹ Accordingly, CARB staff’s paper on *Policy Options for Cost Containment in Response to Board Resolution 12-51* discusses some potential options for containing costs in the cap and trade program. In terms of addressing the proposed options presented therein, IEP would like to offer a few guiding principles for CARB to consider in its determination of which option(s) will most effectively meet the two prong test of Board Resolution 12-51.
- a. All Cost Containment Mechanisms Must Maintain Competitive Neutrality.** In implementing any cost containment mechanisms to ensure that allowance prices do not exceed the top tier of the allowance price containment reserve (APCR) CARB must ensure competitive neutrality in terms of how the cost containment mechanisms are designed and implemented. Specifically, any market mechanism to contain costs should be designed such that it does not upset the competitive playing field between Independent Power Producers (IPPs) and Utility Owned Generation (UOG). While the utilities are responsible for consigning allowances and redistributing the allowance value back to ratepayers consistent with CARB and CPUC policy, the utilities also have their own generation assets that directly compete with independent power producers. To the extent that any cost containment mechanisms are implemented in the cap and trade program, they should be done so in a competitively neutral manner, such that the application does not favor the utilities over IPPs. Furthermore, competitive neutrality should be maintained among sectors to the extent possible.
- b. Cost Containment Mechanisms Should Foster Regulatory Certainty.** While CARB considers a variety of options for ensuring that allowance prices do not exceed the highest

¹ CARB Presentation: California Cap-and-Trade Cost Containment Workshop, slide 7.

price tier of the APCR, CARB must keep in mind the need for regulatory certainty for those operating and participating in the cap and trade program. In a sense, the CARB is already altering the rules of the game mid-course. Thus, while CARB figures out the details of how these potential cost containment mechanisms can be implemented, it is important for CARB to remember that regulatory certainty is key. In particular, the cost containment mechanisms should be well defined ahead of time such that obligated entities know the rules under which they are operating. Particularly in an environment where obligated entities have a lot of money on the line for meeting their compliance obligation, it will be especially helpful for the rules of the program to be well defined ahead of time.

- II. All Compliance Instruments Should Be Valued the Same When Submitted for Compliance.** Once compliance instruments are placed in a compliance account, regardless of what their monetary value once was, they are equal in value in terms of meeting a compliance obligation. Accordingly, CARB's proposal for creating an order in which allowances will be retired once they are placed into a compliance account makes little sense.² First, obligated entities submitting compliance instruments will likely have already confronted the value proposition in terms of which allowances they should retire first. Therefore, the suggestion that this proposed ordering mechanism ensures that the cheapest compliance instruments are retired first seems to be something that obligated entities would have already considered before placing these allowances into their compliance accounts.

During the workshop CARB staff indicated that the regulation needs more clarity on the order that compliance instruments are retired. In addition, Quebec specifies the order of retirement in their regulation and CARB would like to be in harmony with Quebec on this issue. However, there are some fundamental differences in how Quebec and CARB operate in terms of the surrender obligation. Specifically, California has an annual and a triennial surrender obligation, while Quebec has only a triennial surrender obligation due after the end of a compliance period. Consequently, creating an order for how compliance instruments ought to be retired to foster consistency between these two systems does not seem to hold up when the timing for how allowances are surrendered and retired seems to vary between the two jurisdictions.

At this point in time, it is unclear what the added value is to CARB for retiring allowances in any particular order. Regardless of what the market value is for any particular compliance instrument, each of these instruments are essentially equal in terms of meeting a compliance obligation under the cap and trade program. Therefore, it seems that CARB's ordering for how allowances are retired is wholly unnecessary. IEP would like to request more clarity on why this ordering approach is needed and what the added value is to any particular obligated entity or the CARB.

- III. Compliance Information That is Made Public Should Be Relayed to the Public In The Same Manner For All Obligated Entities.** During the workshop CARB staff discussed how compliance information should be made available to the public. Specifically, CARB is considering whether it should relay individual compliance account information or whether this information should be aggregated across multiple compliance accounts.³ IEP supports

² CARB Presentation: Cap-and-Trade Workshop Compliance & Information Requirements, slide 15

³ CARB Presentation: Cap-and-Trade Workshop Compliance & Information Requirements, slide 30.

staff's approach for considering alternatives to publishing individual compliance account information. In addition, to the extent that compliance account data is made public in some form, IEP recommends that this data be relayed to the public in the same manner for all obligated entities. For example, CARB should not aggregate the compliance account information for some entities, while making individual compliance account information public for other entities. If CARB chooses to aggregate compliance data across various compliance accounts, it should do so for all compliance obligated entities, not just a subset or specific class of obligated entities. All compliance account information, regardless of the particular entity, should be treated the same in terms of how that information is made public.

IV. Potential Changes to the Mandatory Reporting Program May Hinder Obligated Entities' Ability to Provide the Most Accurate Data. During the June 25th Cap and Trade Workshop as well as the June 26th Mandatory Reporting Workshop, CARB staff discussed the potential for moving the emissions verification deadline up from September 3rd (current requirement) to August 15th (proposed change). In addition to moving up the deadline for emissions verification, CARB staff queried stakeholders as to whether the reporting deadline should also be moved up (approximately 15 days) in order to allow more people to know their final emissions obligation so that they could participate in the APCR to obtain any residual allowances they may need before the compliance obligation is due.

Given CARB's intent to receive the most accurate reporting data from obligated entities, moving the emissions reporting and verification dates up, even if only by a few weeks, may hinder obligated entities' ability to provide the most accurate data. In order for CARB to obtain the most accurate information from obligated entities, IEP recommends against moving the reporting and verification deadlines up and suggests that the CARB maintain the status quo in terms of reporting deadlines. Moving the reporting deadlines forward will only create an additional burden on obligated entities.

IEP appreciates the opportunity to comment on the issues discussed at CARB's Cap and Trade Workshop on Cost Containment, Compliance Requirements, and Information Sharing. IEP looks forward to working with CARB staff as these issues unfold.

Respectfully Submitted,



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