



Praxair, Inc.
2430 Camino Ramon
Suite 310
San Ramon, CA 94583-5117
Direct line: (925) 866-6825
Fax: (925) 866-6899
gerald_miller@praxair.com

Gerald L. Miller
Vice President
West Region
NAIG

April 13, 2012

Steven Cliff, Chief
Rajinder Sahota, Manager
Ray Olsson, Lead Staff
California Air Resources Board
1001 I Street
Sacramento, California 95814

Subject: Comments of Praxair, Inc. on the March 30, 2012 Discussion Draft for
Regulatory Text Changes to Accommodate Linkage with Quebec

Dear Mr. Cliff, Ms. Sahota, and Mr. Olsson:

Praxair, Inc. (“Praxair”) submits these comments to the California Air Resources Board (“CARB”) staff in response to the March 30, 2012 *Discussion Draft for Regulatory Text Changes to Accommodate Linkage with Quebec* (“Discussion Draft”). Praxair addresses certain administrative aspects of the cap-and-trade program, including the “know your customer” requirements, account representatives, and corporate associations. Praxair also comments on staff’s 2012 timeline for rulemaking and workshop activities and requests that staff address Indirect Emissions and Industry Benchmarks early in the third quarter. Finally, Praxair notes the need for coordination and consistency with Quebec regarding allowance allocation rules for cogenerators.

1. Know Your Customer Requirements:

Section 95834 in the Discussion Draft would provide that the executive director will not allow an individual access to the cap-and-trade tracking system unless the individual complies with “know your customer requirements.” This Section would require employees of a registered entity that need to utilize the tracking system to submit certain personal information, including among other things, personal bank account information. In addition, the verification would require that the information be notarized at least three months prior to submittal. This section may be problematic for registered entities because employees will be reluctant to provide such personal information, and because in some enterprises the persons with responsibility may be subject to change. In particular, there should not be a requirement to provide personal bank account information. Further, the notary requirement could present logistical challenges if new employees need access to the tracking system because the notary requirement would lead to a three month delay before the employee could access the tracking system. The three month wait period should be removed from the notary requirement.

2. Account Representatives:

Section 95832 in the Discussion Draft would amend the cap-and-trade regulation to allow a registered entity to designate up to four “alternate account representatives.” Praxair supports

this change because it will better allow registered entities to ensure they are in compliance, especially when the registered entity has multiple facilities subject to cap-and-trade compliance obligations. However, the distinction between the authorized and alternate authorized account representative(s) remains unclear. The Discussion Draft should be clarified to specifically provide that there is no distinction in the role and capabilities of the authorized and alternate account representative(s), and all five representatives can perform the same functions without any authorization from one another.

3. Corporate Associations

The Discussion Draft would amend Section 95833 to provide additional requirements for disclosing a “disclosable”, “direct” and/or “indirect” corporate association with another registered entity. The Discussion Draft would change the definition for “disclosable” corporate association, which would exist when one registered entity has 20% ownership or control of another registered entity. Similarly the “indirect corporate association” would exist when there is 20% ownership or control after multiplying the ownership percentages across each chain of corporate association. Finally, a registered entity would be required to provide additional information when any of the three corporate associations exists. This information would include the holding account number, authorized account representative, address, contact information, and “information sufficient to explain the entity’s evaluation of . . . the type of corporate association disclosed.”

Staff’s revision of the criteria for “disclosable” corporate associations will likely result in a significant amount of additional corporate associations reported to CARB and associated administrative burdens for CARB and covered entities. If the ownership and control criteria are set at 20%, it may be difficult for registered entities to identify the existence of a corporate association, especially when multiplying percentages across multiple lines of corporate association. Further, while much of the new information called for in the corporate association reporting requirements will be available when there is a direct corporate association, this information may not necessarily be readily available when there is an indirect or disclosable corporate associations. Thus, the reporting provisions should be revised to only require detailed reporting for direct corporate associations. For indirect and disclosable corporate associations, identifying the association should be sufficient to satisfy the reporting requirements.

4. 2012 Timeline For Rulemaking And Workshop Activities

When CARB adopted the cap-and-trade regulation, it issued a resolution recognizing that further work is needed with respect to certain industry benchmarks. Resolution 11-32 provides in part:

[T]he Board directs the Executive Officer to continue to review information concerning the emissions intensity, trade exposure, and in-State competition of industries in California, and to recommend to the Board changes to the leakage risk determinations and allowance allocation approach, if needed, prior to the initial allocation of allowances for the first or second

compliance period, as appropriate, for industries identified in Table 8-1 of the cap-and-trade regulation, including refineries and glass manufacturers...

[T]he Board directs the Executive Officer to continue to work with stakeholders to further develop the allowance allocation approach for the petroleum refining sector and associated activities in the second and third compliance periods. This evaluation should include additional analysis of the Carbon Weighted Tonne approach and treatment of hydrogen production, coke calcining, and other activities that may operate under a variety of ownership structures

After the Board provided this direction, CARB staff presented a 2012 Timeline for Rulemaking and Workshop Activities (linked to staff's presentation on the Discussion Draft). The timeline provides that staff will address indirect emissions, industry benchmarks and continued linkage risk analysis during the third quarter of 2012. Praxair requests that staff address these issues early in 2012 because some of the benchmarks do not have accurate emissions factors and producers of those products require certainty as to the quantity of the allowances they will receive before the auctions start in 2013.

In particular, staff should seek to develop a more accurate benchmark for liquefied hydrogen that accounts for the *direct* emissions attributable to the liquefaction process. Praxair believes that further analysis of liquefied hydrogen production is necessary to ensure that this product is not unfairly disadvantaged in relation to out-of-state competitors. Moreover, the Board's recognition of the need for an accurate leakage risk assessment and efficiency factor for liquefied hydrogen will help preserve jobs at the two liquid hydrogen facilities in the State and in the industries that are dependent on the products' availability (aerospace, biofuels, fuel cell vehicles, electronics and metals).¹ Such recognition will avoid the unintended emissions impacts from competitive product shipped into the State by truck. Praxair remains available to assist staff in the development of a more accurate emissions benchmark and leakage risk analysis for liquefied hydrogen.

5. Coordination with Quebec on Allowance Allocation Rules

During the April 9th public workshop on the Discussion Draft, stakeholders raised concerns that the allowance allocation provisions in Quebec's program are inconsistent with the allowance allocation provisions in California's cap-and-trade. In Quebec, cogenerators will receive allowances for the steam they sell.² In this regard, California's allowance allocation provisions are inconsistent with Quebec's cap-and-trade program because California would not

¹ For more information on the industry benchmark for liquefied hydrogen, please see Praxair's September 27, 2011 Comments on September 12, 2011 Revisions to the Cap-and-trade Regulations, available at:

http://www.arb.ca.gov/lists/capandtrade10/1621-110927_praxair_carb_comments_to_2nd_cnt_modifications_00027608.pdf

² See *Quebec Regulation Respecting a Cap-and-trade System for Greenhouse Gas Emission Allowances*, Division II, Sec.39, and Appendix C, Part I, Table A, available at:

http://www.mddp.gouv.qc.ca/changements/plan_action/projet-reglement/droits-emission-ges_an.pdf

allocate any allowances to cogenerators. As Praxair discussed in previous comments to CARB, the policy for not allocating allowances to cogenerators will undermine the goal in the scoping plan for encouraging new, efficient CHP.³ Praxair continues to urge CARB to evaluate its policy regarding allowance allocation to cogenerators, especially in light of the desired coordination with Quebec, as well as the Scoping Plan goal to encourage new and efficient CHP.

Conclusion

In conclusion, Praxair requests that staff revise the “know your customer” requirements to remove the requirement to provide personal bank account information. In addition, submissions under this section should not have to be notarized three months before submission. Praxair requests that staff clarify the roles of the authorized and alternate account representatives. Staff should also revise the corporate association requirements to remove the more detailed reporting requirements for indirect and disclosable corporate associations.

While the Discussion Draft makes several helpful changes, Board Resolution 11-32 requires staff to continue to work on other aspects of the regulation, specifically industry benchmarks. The benchmark for liquefied hydrogen is inaccurate and should be revised early in the third quarter. Finally, the changes in the Discussion Draft to link with Quebec’s cap-and-trade program should address the inconsistencies between the two programs with respect to allowance allocation to cogenerators. Praxair encourages staff to revisit the policy to not allocate any allowances to cogenerators.

Praxair appreciates the opportunity to provide these comments and looks forward to working with staff towards the successful resolution of these concerns.

Respectfully submitted,



Gerald L. Miller
Vice President, Western Region
North American Industrial Gas Division
Praxair, Inc.

³ See Praxair Comments on Proposed Cap-and-trade Regulation at p. 4 (Dec. 10, 2010), available at: http://www.arb.ca.gov/lists/capandtrade10/1169-101215_praxair_carbcmts_fin.pdf