**City and County of San Francisco Comments on the California Air Resources Board's Revised Rulemaking to a California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation, Including Compliance Offset Protocols**

**Background**

The City and County of San Francisco (CCSF) would like to thank the Air Resources Board (ARB) for its work to revise the rulemaking structure for the proposed Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanism Regulation and Compliance Offset Protocols. We continue to urge the ARB to develop regulations that incentivize reductions in the burning of fossil fuels for electricity generation, transportation, and other uses, as well as other greenhouse-gas reduction measures, such as diversion of waste from landfills and alternative uses of organics over landfilling. Both our atmosphere and our soils will benefit from such practices.

Our comments on selected elements of the ARB's proposed revisions to the cap and trade program are provided below. We have focused on those elements that have a direct impact on CCSF. For example, the revised regulations include provisions that provide the San Francisco Public Utilities Commission (SFPUC) with allowances that should be sufficient to ensure it can continue to provide reliable service to its electric customers at a reasonable cost. Further, CCSF would like to support the ARB as the appropriate enforcement entity to ensure that revenues received by electric distribution utilities from the sale of allocated allowances will benefit all of the utility's ratepayers. As a jurisdiction implementing community choice aggregation (CCA), CCSF urges the ARB to ensure that allowance auction proceeds received by the investor-owned utilities are spent in a manner that does not unfairly disadvantage San Francisco residents and businesses that choose to take service from CCSF's CCA rather than the incumbent utility.

Since our last comments were submitted to the ARB in December 2010, CCSF has revised its Community Carbon Footprint (total 5.45 MMTs/yr for all of San Francisco) and found that 60% (3.25 MMTs/yr) of our GHG emissions come from building energy use, with 1.6 MMTs/yr of this subtotal from natural gas consumption in buildings. While the Renewable Portfolio Standard and the ARB's cap and trade program will continue to decrease the carbon intensity of electricity, Assembly Bill 1493 (Pavley) will decrease emissions from passenger vehicles (2.2 MMTs/yr), and the cap and trade program will encourage reductions in natural gas consumption, additional incentives and mandates supporting reductions in natural gas are needed. CCSF supports expanding current programs and developing new regulations to further encourage reductions in natural gas consumption. Additionally, given the intensity and more immediate impact of emissions of high methane content biogas relative to carbon dioxide, CCSF urges the ARB to develop offset protocols that encourage investment in facilities that capture and reduce methane emissions from landfills, wastewater treatment, and leakage from natural gas transmission lines.

To meet our emissions reduction goals, CCSF will require assistance in funding the necessary investments in new and existing infrastructure, such as energy efficiency retrofits, renewable energy generation, upgrades to our water and wastewater systems (including natural resource and watershed management), and the improvement and expansion of public transportation.

Thank you for your consideration.

**Recommendations Summary**

Allowances for Electric Distribution Utilities

- The number of allowances provided to the SFPUC under the proposed allocation mechanism should be sufficient to ensure that the SFPUC can continue to provide reliable service to its electric customers.

- The method for allocating allowances to the electric distribution utilities should remain unchanged through 2020 in order to promote optimal resource planning.

- The ARB should retain its role in ensuring that the use of auction proceeds by California's electric distribution utilities benefits all electric ratepayers.

- CCSF supports the Voluntary Renewable Energy Provisions to reward GHG reductions that go beyond state requirements, but believes additional clarification of the program is needed.

- Additional flexibility should be provided to publicly-owned electric distribution utilities to transfer allowances out of the compliance account to address variations in resource mix.

Offset Protocols

- Given the potency of methane as a greenhouse gas and its impact on climate change, the ARB should include additional incentives for biogas capture and reuse projects.

- CCSF urges the ARB to adopt offset protocols for composting and anaerobic digestion.

- The Compliance Offset Protocol - US Forest Projects should be amended to include measures to prevent net loss of native biodiversity and prevent conversion of California's grasslands to forest.

**Recommendations Detail**

**ALLOWANCES FOR ELECTRIC DISTRIBUTION UTILITIES**

**THE ALLOCATION OF GHG ALLOWANCES TO THE SFPUC SHOULD BE SUFFICIENT TO ENSURE THE SFPUC CAN CONTINUE TO PROVIDE RELIABLE SERVICE AND MEET EXPECTED LOAD GROWTH**

CCSF's major concern regarding the ARB's cap and trade program is the fair allocation of allowances to California's electric distribution utilities, including allowances for the SFPUC. CCSF believes that the number of allowances allocated to the SFPUC in the July 25th 15-day notice should be sufficient to mitigate the additional costs incurred to meet the obligation of providing reliable service to its electric customers under the cap and trade framework.

As described in further detail in CCSF's December 15, 2011 comments, CCSF supports an allowance allocation mechanism that recognizes and rewards those electric distribution utilities that already have significantly reduced GHG emissions well before the adoption of AB32.[1] One example would be an allocation mechanism such as the ARB's "Emissions Efficiency Benchmark" used for other sectors,[2] which allocates allowances based on an average of GHG emissions per unit of output and thus rewards entities that have historically operated with lower GHG emissions. Another example, also considered by the ARB, would transition over time from allocating allowances based on emissions to increasingly allocating allowances based on sales or throughput. This approach balances the rewarding of entities with historically low GHG emissions while providing a transition period for high-GHG entities to adjust their operations.

Although the ARB's current proposed allocation mechanism does not adopt either of these approaches, the number of allowances issued to the SFPUC in the 15-day notice should be sufficient to mitigate the additional costs incurred by the SFPUC to meet its obligation to provide reliable service to its electric customers under the cap and trade framework.[3]

1 The SFPUC's December 15th comments are incorporated by reference.
2 Proposed Section 95802(a)(87)
3 Although sufficient to meet its needs, it should be noted that notwithstanding being among the lowest emitters of GHG on a MWh basis, the proposed allocation results in the SFPUC having among the lowest "net benefit" ratios (e.g. allowances issued in excess of cost burden) as calculated by the ARB. See Table A to Appendix B of the 15-day Notice.

## TO PROMOTE EFFICIENT RESOURCE PLANNING, THE METHOD FOR ALLOCATING ALLOWANCES SHOULD REMAIN UNCHANGED THROUGH 2020

The ARB's 15-day notice proposes that the allocation of allowances will not be updated, unless required due to unforeseen circumstances between now and 2020. To ensure certainty and enable California's electric providers to plan how best to meet their future needs, CCSF supports this recommendation.

## ARB SHOULD RETAIN ITS ROLE IN ENSURING THAT THE USE OF AUCTION PROCEEDS BY CALIFORNIA'S INVESTOR-OWNED UTILITIES (IOUS) BENEFIT ALL IOU RATEPAYERS

The ARB's 15-day notice seeks comment on whether the ARB should retain its proposed rules (Section 95892(d)(3)) regarding the use of auction proceeds by electric distribution utilities or apparently (as was proposed by several parties at the July 15th workshop) delegate this responsibility to the California Public Utilities Commission for the investor-owned utilities.

CCSF strongly supports the guidance contained in the current proposal and believes it is critical to achieving the goals set forth by the ARB that the use of auction proceeds 1) be "used exclusively for the benefit of retail ratepayers of each electrical distribution utility"[4]; 2) "ensure equal treatment of [the IOU's] own customers and customers of electricity service providers and community choice aggregators"[5]; and 3) not mute the price signals that the cap and trade program is supposed to provide end-users to reduce their GHG footprint.

As a jurisdiction implementing community choice aggregation (CCA), CCSF is particularly concerned that the use of auction proceeds by the investor-owned utilities not unfairly disadvantage San Francisco residents and businesses that choose to take electric service from CCSF's CCA rather than the incumbent utility.

Operating as an electric distribution utility that also would be subject to this guidance, CCSF believes these are reasonable conditions on the use of allowances that ensure the goals of AB32 are achieved. Therefore, the existing requirements in the ARB's proposed regulation should be retained.

## CCSF SUPPORTS THE VOLUNTARY RENEWABLE ENERGY PROVISIONS TO REWARD GHG REDUCTIONS THAT GO BEYOND STATE REQUIREMENTS BUT BELIEVES ADDITIONAL CLARIFICATION OF THE PROGRAM IS NEEDED

The ARB proposal includes a "voluntary renewable energy program" (Proposed Section 95841.1) that will retire GHG allowances (up to a cap) to reflect the GHG-reducing effect of consumers voluntarily purchasing renewable energy in excess of what is required under California's Renewables Portfolio Standard (RPS) statutes.

Properly structured, this provision supports electric distribution utilities, CCAs, energy service providers and other entities that provide electricity supplies that exceed state mandates for renewable content.

CCSF supports this proposal, but notes some inconsistencies in the proposal as written. For example, although described in the 15-day notice as promoting the use of voluntary "renewable energy, (i.e. energy that "is not the subject of a mandate")[6] the definitions section of the proposal ((Section 958029a) (280)) defines "Voluntary Renewable Electricity" as renewable energy "which will not be used to meet any other mandatory requirements or voluntary program."[7] CCSF recommends that the ARB continue to work with stakeholders, such as end-users and entities acting on their behalf, to ensure that the implementing regulations work together with existing and proposed RPS regulations and reporting protocols. CCSF looks forward to working further with the ARB on this program.

4 Proposed Section 95892(d)(3)
5 Ibid.
6 15-day notice, p. 8
7 The regulation might better be written as "will not be sold or used to; 1) meet any other mandatory requirements in California; or 2) meet any other mandatory requirements or voluntary programs in states other than California."

**ADDITIONAL FLEXIBILITY SHOULD BE PROVIDED TO PUBLICLY-OWNED ELECTRIC DISTRIBUTION UTILITIES TO TRANSFER ALLOWANCES OUT OF THE COMPLIANCE ACCOUNT TO ACCOUNT FOR VARIATIONS IN RESOURCE MIX**

Section 95892 allows publicly-owned electric utilities to allocate the allowances they receive between their Compliance Account (used to meet their GHG obligations) and their Limited Use Holding Account (which are then auctioned off). Section 95831(a)(4)(B) requires that "once a compliance instrument [is] transferred into a compliance account [it] may not be removed."

This limitation could potentially strand allowances in the compliance account in cases where an electric utility is not able to accurately predict the amount of allowances it would need for compliance. This is a particular problem for electric utilities such as the SFPUC with significant hydroelectric generation whose potential costs of compliance could fluctuate significantly from year to year due to changing hydrologic conditions.

Providing publicly-owned utilities in such circumstances with some flexibility to move excess allowances back out of the compliance account would not only benefit the publicly-owned utility, but also improve the liquidity of the overall allowance market.

**<u>OFFSET PROTOCOLS</u>**

**ADDITIONAL INCENTIVES FOR BIOGAS CAPTURE AND REUSE PROJECTS ARE NEEDED**

CCSF supports Section 95852.2 establishing that there is no compliance obligation for CO2 combustion emissions from high methane content biogas. According to the US EPA, methane is over 20 times more effective in trapping heat in the atmosphere than CO2. Given the higher potency of methane in global warming effect and its higher short-term impact on climate change, CCSF urges the ARB to include additional incentives to expand renewable electricity generation through biogas-fueled combined heat and power systems instead of the flaring digester gas. These incentives might include "first-in-line" benefits, the streamlining of offset protocols, more generous quantitative usage limits, or other mechanisms that would increase biogas capture from a variety of sources (e.g. wastewater treatment, agricultural activities, municipal compost facilities, and natural gas systems). The right incentives could spur the development of new methane/biogas capture technologies which have the greatest pound-for-pound impact on reducing the extent and pace of global climate change.

**THE ARB SHOULD ADOPT OFFSET PROTOCOLS FOR COMPOSTING AND ANAEROBIC DIGESTION**

CCSF strongly urges the ARB to adopt offset protocols for composting and anaerobic digestion in the cap and trade program. Composting and anaerobic digestion projects are proven highly beneficial strategies that avoid the fugitive biogas releases from landfills. Further, the use of the compost produced by these strategies provides multiple greenhouse gas reduction benefits. Therefore, CCSF urges ARB to provide clear incentives for composting and anaerobic digestion over landfilling.

**THE ARB SHOULD INCLUDE PROVISIONS IN FOREST PROTOCOLS TO PREVENT NET LOSS OF NATIVE BIODIVERSITY AND PREVENT CONVERSION OF CALIFORNIA'S GRASSLANDS TO FOREST**

CCSF applauds the incentive offered to forests through the development of carbon credits which support reforestation and preservation of California's forests. However, we are concerned that the Compliance Offset Protocol U.S. Forest Projects may create incentives to plant trees in grasslands, which harbor significant native biodiversity in the state of California. The requirements for reforestation projects (Sections 2.1.1 and 3.1.2.1 of the Compliance Offset Protocol U.S. Forest Projects) should be amended to include measures to prevent net loss of native biodiversity and prevent conversion of California's grasslands to forest. Native biodiversity should be protected and considered at all scales including species diversity and diversity in land cover and ecological function.