



**Comments of NextEra Energy Resources
On the California Air Resources Board's
2nd 15 – Day Proposed Modification to the
California Cap and Trade Program
September 27, 2011**

NextEra Energy Resources¹ (NextEra) is a leading clean energy provider with 18,886 MW of generation capacity operating in 26 states and Canada. More than 90 percent of NextEra's electricity is generated by clean fuels. In addition, NextEra is the nation's leader in wind energy generation and operates the two largest solar thermal fields in the world. Furthermore, we are an affiliate of a regulated utility, Florida Power & Light Company located in southern Florida. In California, NextEra affiliates own and/or operate 700 MWs of wind, 310 MWs of concentrated solar thermal, and 500 MW of combined cycle natural gas generating capacity.

NextEra appreciates the efforts of the California Air Resources Board (ARB) staff to date in the development of the regulations implementing the California Global Warming Solutions Act of 2006 (AB32). As this is the final opportunity for stakeholders to submit formal written comments to ARB staff on this rule, NextEra would like to emphasize that overall the rule is an effective step toward establishing the framework to enable California to meet its GHG emissions reduction goals. In response to the proposed language changes released on September 12, 2011, NextEra supports the comments submitted by two of our trade groups; the Independent Energy Producers of California (IEP) and the Western Power Trading Forum (WPTF).

¹ NextEra Energy Resources, LLC and its affiliates NextEra Energy, Inc., Florida Power & Light Company each have subsidiaries and other affiliates with names that include FPL, NextEra Energy Resources and similar references. For convenience and simplicity, NextEra Energy Resources, NextEra Energy Inc, and FPL as well as terms like Corporation, Company, our, we and its, are sometimes used as abbreviated references to specific subsidiaries, affiliates or groups of subsidiaries or affiliates. The precise meaning depends on the context. NextEra Energy Resources and some of its affiliates were formerly known as FPL Energy.

Highlighted below are several issues we feel must be addressed by ARB staff. Please refer to the comments submitted by IEP and WPTF on these issues. The specific areas NextEra has identified as areas of concern include:

- Criteria for utilizing the “RPS Adjustment”² for imported renewable energy are not consistent with the California Public Utility Commission (CPUC) RPS program.
- Resource Shuffling³ definition is still very broad and may impede market efficiency.
- Despite the direction of the Board Decision December 16, 2010⁴, ARB staff has not provided a tangible cost-recovery option for independent energy producers subject to pre-existing power purchase contracts.
- The definition of Electricity Importer⁵ is still unclear and needs to be further developed in conjunction with CAISO, CPUC, and CEC staff.
- The removal of allowances in order to satisfy a penalty in a quantity that exceeds actual emissions⁶ penalizes all market participants, not just the entity in violation of the regulation. The penalty portion of an enforcement action should be either direct monetary payment or an “in kind” payment.

In addition to the comments of WPTF and IEP, NextEra would like to strongly urge the ARB to consider incorporating more offset protocols into the program. We understand that this requires additional rulemaking. ARB staff has indicated that rulemaking could potentially take place in 2012 to address this as well as other issues. NextEra would support that effort and be willing to participate in the process to assist ARB in reviewing protocols to ensure they meet the goals and requirements of AB32. We feel the availability of offset credits is critical to controlling the cost of allowances and the impact the cap and trade program will have on consumers. In addition, some projects result in the production of co-benefits to the public and the environment. We would ask that ARB staff seriously consider adding the following list of offset protocols to the regulation and also consider the following additions to existing protocols;

- Improved forestry management
 - Protocols for specific geographic areas
 - Forestry practices vary depending on the location and species of trees
- Industrial gas abatement
 - Add N₂O and SF₆ to protocol for abatement of ozone depleting substances (ODS)

² Modified Regulation Order for a California Cap and Trade Program, published September 12, 2011, 95852(b)(4), pA-91

³ Modified Regulation Order for a California Cap and Trade Program, published September 12, 2011, 95802(251), pA-44

⁴ State of California Air Resources Board, Cap and Trade Program, Resolution 10-42, Agenda Item 10-11-1

⁵ Modified Regulation Order for a California Cap and Trade Program, published September 12, 2011, 95802(87), pA-18

⁶ Modified Regulation Order for a California Cap and Trade Program, published September 12, 2011, 95857(b), pA-112

- Landfill gas
 - Projects outside of CA where regulations do not require controls
- Coal mine methane abatement
 - Potential projects exist across WCI region
- CO2 sequestration

It is important for ARB staff to address these issues adequately prior to the program going live in 2013. If these issues are not addressed by the Oct 28, 2011 deadline for submission to the Office of Administrative Law, NextEra urges ARB to open new rulemaking either late 2011 or early 2012 to address these specific issues in the regulation. This will allow time to gather input from all interested parties as well as experts in the electricity markets. It is important that the regulations are effective in reducing GHG emissions at the least cost to consumers. It is also important that the regulation of GHGs does not add unnecessary complexity to the electricity markets and all parties are treated fairly. The timing of the potential new rulemaking is critical and NextEra suggests that every effort be made to complete this process prior to the program launch in January 2013. If you have any comments or questions related to these comments, please feel free to contact me directly.

Thank you,

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