

February 14, 2014

**Comments of the Independent Energy Producers Association on
CARB's Discussion Draft on Potential Amendments to the California Cap on
Greenhouse Gas Emissions and Market-Based Compliance Mechanisms
Released January 31, 2014**

The Independent Energy Producers Association provides these comments on the CARB Informal Discussion Draft on Potential Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms ("Discussion Draft"), released January 31, 2014.

IEP Supports CARB's Proposal Regarding Legacy Contracts: As noted in our previous comments submitted in October 2013, IEP supports CARB's proposal to provide relief to legacy contract generators with counterparties that are receiving industry assistance. This approach is designed to provide allowances to the legacy contract generator for the entire duration of the contract. IEP also supports CARB's proposal as seen in Section 95870 (g) of the Discussion Draft to provide transition assistance for legacy contracts, whose counterparty is not receiving industry assistance, through the second compliance period (i.e. through 2017). Further, IEP continues to support CARB allowing 2015 vintage allowances, allocated to legacy contract generators for 2013 and 2014, to be used for compliance prior to 2015.¹

Legacy Contract Generators Should Not Be Penalized for Violating the Holding Limit As a Result of Receiving a Direct Allocation in the Annual Allocation Holding Account. IEP supports the concept of the Annual Allocation Holding Account (previously referred to as the Limited Exemption Holding Account) as a temporary holding area for entities that qualify for an allocation under Section 95870.² As IEP understands it, the Annual Allocation Holding Account is designed to hold future vintage allowances that are directly allocated to entities where a violation of the holding limit might otherwise occur.³

However, language in section 95920(d)(2)(H) seems to indicate that only certain entities' may be exempt from the holding limit as it relates to the annual allocation holding account. Specifically Section 95920(d)(2)(H) indicates:

Allowances allocated pursuant to section 95870(d) and (e) which are transferred to the receiving entity's annual allocation holding account in a year preceding their vintage

¹ See CARB Discussion Draft on Potential Amendments to the California Cap on Greenhouse Gas Emissions And Market –Based Compliance Mechanisms, Section 95894(c) and (d).

² CARB Discussion Draft on Potential Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms, Section 95831(a)(6); Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms. Staff Report: Initial Statement of Reasons, Page 108, 109, (September 4, 2013).

³ See Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms. Staff Report: Initial Statement of Reasons, Page 108, 109, (September 4, 2013).

year, will not count against the Holding Limit or limited exemption until January 1 of their vintage year.

First, IEP believes that it may be appropriate to add section 95870(g) to this list such that allowances that are allocated pursuant to section 95870(d), (e), **and (g)** are not subject to the holding limit until January 1 of their vintage year. This would ensure that, similar to other parties, legacy contract generators that are receiving a direct allocation are not in violation of the holding limit as a result of receiving a direct allocation. Legacy contract generators should not be penalized for violating the holding limit as a result of receiving transition assistance. Second, if the holding limit is indeed an issue for legacy contract generators, it is uncertain whether this is an issue for all, or possibly only the beginning compliance years. IEP's recommendation may need to be modified depending on that conclusion.

Other Comments Associated with the Proposed Changes to the Cap and Trade Regulation. IEP's comments below primarily focus on identifying typos and incorrect references in the document. Our proposed changes are indicated in ~~strike through~~, **bold** and underline.

Section 95831: Account Types

In section 95831(a)(6) CARB has renamed the "Limited Exemption Holding Account," the "Annual Allocation Holding Account". In Section 95870(g) CARB needs to similarly change the reference to the "Limited Exemption Holding Account" to the "Annual Allocation Holding Account."

Section 95870: Disposition of Allowances:

Section 95870(e)(4) should read as follows: "Industrial entities who purchase electricity or qualified thermal output pursuant to a legacy contract and who receive allocation under this section shall have their allocation reduced as specified in Section 95891(~~h~~)**f**." There is no 95891(h).

Section 95856: Timely Surrender of Compliance Instruments by a Covered Entity:

Section 95856(h)(1)(D) should be edited as follows:

The current calendar year's vintage allowances and allowances allocated just before the annual surrender deadline up to the True-up allowance amount as determined in sections 95891(b), 95891(c)(3)(B), 95891(d)(1)(B), 95891(d)(2)(B), 95891(d)(2)(C), 95891(e)(1), 9589**54**(c) or 95894(d) if an entity was eligible to receive true up allowances pursuant to sections 95891(b), 95891(c)(3)(B), 95891(d)(1)(B), 95891(d)(2)(B), 95891(d)(2)(C), 95891(e)(1), 95894(c), or 95894(d).

Section 95856 (h)(2)(D) should be edited as follows:

The current calendar year's vintage allowances and allowances allocated just before the triennial surrender deadline up to the true-up allowance amount as determined in section 95891(b), 95891(c)(3)(B), 95891(d)(1)(B), 95891(d)(2)(B), 95891(d)(2)(C), 95891(e)(1), 9589**54**(c) or 95894(d) if an entity was eligible to receive true up allowances pursuant to

section 95891(b), 95891(c)(3)(B), 95891(d)(1)(B), 95891(d)(2)(B), 95891(d)(2)(C), 95891(e)(1), 95894(c) or 95894(d).

Section 95894: Allocation to Legacy Contract Generators for Transition Assistance:

Section 95894(d)(1) should be edited as follows:

.....

Where

“TrueUp₂₀₁₅” is the amount of True up allowances allocated from budget year 2015 and allowed to be used for budget years 2013 and 2014 and subsequent years, pursuant to sections 95856(h)(1)(D) and 958~~7~~56(h)(2)(D), in vintage 2015 allowances based on calendar year 2012 Legacy Contract Emissions reported and verified pursuant to MRR.

IEP appreciates the opportunity to comment on the CARB’s Discussion Draft on the Potential Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms (released January 31, 2014).

Respectfully Submitted,



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