

Ms. Rajinder Sahota, Chief, Climate Change Program Evaluation Branch
California Air Resources Board

2013/04/05

RE: Proposed Amendments on the 15-Day Proposed Changes to the Cap-and-Trade Regulation

TransAlta appreciates the opportunity to comment on two proposed amendments to the Cap-and-Trade Regulation. TransAlta is specifically concerned about the expanded disclosure requirements outlined below.

1. 95830 – Registration with ARB

ARB has further revised language requiring CITSS entities to disclose names and contact information of employees with knowledge of an entity's "market position" (current and/or expected holdings of compliance instruments and current and/or expected covered emissions). For any organization that produces an energy related commodity, their carbon allowance obligation is directly related to the output of their facilities, and marketing activities. The expansion of the disclosure requirements, as currently written, would encompass the majority of all staff associated with production, generation and marketing. All staff have indirect knowledge of an entity's expected covered emissions attributed to production, and could derive the requisite holding of compliance instruments necessary to hedge daily production and trading. TransAlta feels this language is too broad and would make it very difficult to identify all those employees who need to be disclosed.

TransAlta requests that ARB changes this requirement by specifically narrowing the disclosure requirement to those employees who have knowledge of an entity's current compliance market position and have decision-making capacity regarding holdings, transactions, transfers and retirement, or access to the entity's CITTS account. This modification would remove the need to disclose back office staff that do not have transaction capabilities, and specifically identify those select front office employees who must be disclosed.

We therefore ask that staff alters section 95830(c)(1)(i) to read:

Names and contact information for all persons employed by the entity with knowledge of the entity's market position (current and/or expected holdings of compliance instruments) ~~current and/or expected covered emissions~~ that are authorized by the entity to initiate or approve compliance instrument transaction agreements or transfer requests.

2. 95923. Disclosure of Cap-and-Trade Consultants and Advisors

ARB has slightly modified provisions first introduced in September that would require entities registered in the Cap-and-Trade Program to disclose the names of individuals or entities providing services related to the Cap-and-Trade Program.

TransAlta considers that the objective of 95923 should be to identify consultants and advisors with the ability to either influence a registered entity's transactions of compliance instruments, or who have access to information on these holdings.

TransAlta recommends that, rather than referencing section 95979(b)(2) of this regulation and 95133(b)(2) of the MRR, ARB modify section 95923 to designate an exclusive list of services, as follows:

95923. (a) A "Cap-and-Trade Consultant or Advisor" is a person or entity that is not an employee of an entity registered in the Cap-and-Trade Program, but is providing the services listed in ~~section 95979(b)(2) of the Cap and Trade Regulation or section 95133(b)(2) of the Mandatory Reporting Regulation in relation to the Cap and Trade Program or MRR~~ below specifically for the entity registered in the Cap-and-Trade Program, ~~regardless if the Consultant or Advisor is acting in the capacity of an offset or MRR verifier.~~

1. Services that result in the consultant or advisor having access to information on the entity's holdings or transactions of compliance instruments; and
2. Services that result in the consultant or advisor having authority to transact compliance instruments on behalf of the entity

I appreciate your consideration of these comments.

Sincerely,

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