



Roseville Electric
2090 Hilltop Circle
Roseville California 95747-9704
Reliable Energy Dependable Service

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Mr. Kevin Kennedy
California Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: Comments on Preliminary Draft Regulations for a California Cap-and-Trade Program, November 24, 2009

The City of Roseville (Roseville) appreciates the opportunity to participate in the development of California's cap-and-trade program. Roseville is a part of a collaborative team of five municipal electric utilities known as the Offset Working Group (OWG). The OWG has focused its comments to the role and use of offsets in the California cap and trade program. Roseville incorporates those comments by reference here. The comments provided below are solely by and for the City of Roseville in response to the Preliminary Draft Regulations for a California Cap-and-Trade Program, dated November 24, 2009.

Recognizing the regulations are a preliminary draft, ARB should more clearly define and identify the requirements for registration requirements for covered entities and opt-in participants. Specifically, Roseville is concerned that very little established criteria for opt-in participants may lead to scenarios where aggregate demand outstrips available supply of compliance instruments caused by the sheer number of potential buyers in the market. Roseville generally supports the ability for open, transparent, and active participation by a wide group of interest parties in the CA cap-and-trade program. However, in doing so, ARB also exposes the market to very strong demand competing for a finite, declining supply of allowances. With the proposed use limit on offsets set to 4% of a covered entities surrender obligation, covered entities like Roseville have very few avenues to satisfy its legal obligations. Based on the language in §95840, it is unclear as to the potential size of the pool of opt-in participants. For example, is it possible for an individual to procure and retire allowances, to offset his/her personal transportation GHG emissions, either through a firm that acts as a clearing house to the public or as an individual who registers as his/her own opt-in participant? In this example, allowances are used to offset emissions from a sector that is not yet covered by the cap-and-trade program nor was this use considered when the level of the declining cap was established for the compliance period. Therefore, demand is misaligned with supply leaving covered entities exposed to a skewed market price signal.

§95870(c)(2) states, "An entity must maintain a current and valid registration in order to continue to hold California compliance instruments" (at 30). ARB should specify the meaning and implications of the phrase, "continue to hold." This could be interpreted to mean that "ownership" of compliance instruments is forfeit once a registration becomes invalid, even momentarily. A violator of this subsection should not have the ability to access or perform any actions to its holding account, compliance account, or compliance instruments during the period of noncompliance (i.e. a suspension of all activity to add, remove, transfer, sell, retire, etc.). This subsection should be amended to specify if and under what conditions a noncompliant entity forfeits its compliance instruments for noncompliance. If forfeiture of compliance instruments for violations of this subsection is possible, Roseville recommends that a short term suspension period be established to allow entities to remedy noncompliance without forfeiting compliance instruments.

§95940 contains a concept box that solicits comments whether fuel deliverers should be included as covered entities with surrender obligations in 2012 or 2015. Roseville is indifferent as to the timing on this matter so long as ARB, or its designee, make appropriate increases to the number of allowances available to the market at the time they are included as covered entities with surrender obligations.

§95980(f)(3)(B) states, "...remedial transfers must be completed no more than 30 days from the date the Executive Officer notifies the entity of the deficiency" (at 45). Roseville agrees that there should be penalties for noncompliance with §95980. ARB should specify what means of communication the Executive Officer will use to notify a noncompliant entity of violation(s) of this section. This communication should consist of some form of outgoing transmission from the Executive Officer and should provide some means for the ARB and entity to track the timing of said communication. Also, ARB should specify whether the 30 day period consists of calendar days or business days. If the latter, ARB should define its business days in the regulations.

§95980(c) states, "A compliance instrument transferred into a Compliance account...may not be removed until after the surrender obligation...is fulfilled pursuant to Subsection 95980(g) (at 44). §95980(g) states, "When the Data Review and Reconciliation Process has concluded..." (at 45). ARB should modify §95980(c) to allow entities to remove compliance instruments prior to the conclusion of the Review and Reconciliation Process, upon which any compliance instruments in the compliance account are retired. Entities may need greater flexibility in deciding how they want to meet their surrender obligation (e.g. with what mix of allowances and offsets). Not allowing entities to withdrawal until after the conclusion of Subsection 95980(g) would preclude this type of flexibility. Alternatively, Subsection 95980(f)(2) could be modified to allow the covered entity to designate which excess compliance instruments the Executive Officer will transfer back to the covered entity's holding account (at 44). One example to provide such flexibility is to only allow withdrawals with a matching number of

transfers. For example, a covered entity transfers 100 MT of allowances to its compliance account. Later, the same entity procures 15 MT of verified offsets. This entity should be allowed to transfer 4 MT of offsets (only 4 MT in keeping with the use limit on offsets) and return 4 MT of allowances to its holding account.

The concept box at 41-42 introduces 2 options to address and mitigate market participants' exposure to one or more participants' bankruptcy. Roseville prefers the deadline for initial surrender as outlined in §95980(e). However, in recognition of the bankruptcy risk and options introduced on pages 41-42, Roseville would conditionally support Option 1—entities cover a portion of their annually-reported emissions by retiring compliance instruments at specific periodic intervals. If ARB were to modify §95980(e) in favor of Option 1, ARB should:

- a. Tie the necessary quantity of instruments to be retired to the entities verified reported emissions for the applicable year;
- b. Consider establishing a percentage that satisfies ARB's language, "a portion";
- c. Require a true-up transfer and retirement of compliance instruments no later than the deadline of the final year of the compliance period to fully satisfy the unmet residual surrender obligation from previous years' partial offset;
- d. Apply Subsection 95980(f) to each year within the compliance period, but only to the quantity of compliance instruments that are required to be periodically transferred under these provisions; and
- e. Apply Subsection 95980(c) in the same manner described in the paragraph above and only to the quantity of compliance instruments that are required to be periodically transferred under these provisions.

Roseville generally supports the following concepts. Many of the following concepts are introduced via a concept box. Roseville looks forward to working with ARB as these ideas are developed.

1. A covered entity shall be the facility operator and/or the first entity to place power onto the CA grid (§95820 at 25-27);
2. External GHG emission trading systems may become available to allow registered entities to procure and retire compliance instruments as part of the CA cap-and-trade program (§95860 at 29); and
3. ARB may reserve the right to make administrative adjustments to the base allowance budgets (§95910 at 33).


Michael Bloom, Power Supply Manager