



BP America, Inc

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Via Email

Dr. Steve Cliff
California Air Resources Board
1001 I Street, P.O. Box 2815
Sacramento, CA 95812

Subject: Public Information Sharing in California's Cap and Trade Program

Dear Steve:

BP America, Inc. submits these comments on CARB's plan for public information sharing in California's Cap and Trade Program as discussed at the CARB workshop on January 25, 2013.

BP understands and appreciates the objectives of transparency and public disclosure in regulatory proceedings and in the progress of meeting environmental goals. However, it is important to understand that disclosure of information to the public cuts both ways in regard to benefit or harm to the public. Public disclosure can provide reassurance and confidence in public policy and can satisfy a legitimate right for the public to know details about issues of interest to them. On the other hand, there is good reason to avoid public disclosure of certain sensitive business or market information where disclosure of such information could result in markets that are less competitive and efficient. The public benefits from lower prices of goods and services where markets are competitive and efficient.

With this in mind, it is important that the Cap and Trade Program's plan for public disclosure strike the right balance between reassuring and protecting the public. We are concerned that the proposal discussed by CARB at the 1/25 workshop does not strike this balance. We are further concerned that the staff proposal both used the existing language in the current cap and trade regulation as a constraint in what information must be disclosed (i.e. compliance account holdings) – *and* proposed changes to the current requirement that holding account balances be held confidential. CARB should be consistent as to whether the existing language is to be upheld without change – or whether it is open for consideration to revisions in order to provide the best outcome for the public and regulated entities.

The current regulatory language requires that the Executive Officer “releases information on the quantity and serial number of compliance instruments contained in compliance accounts in a timely manner” – *and* “protects as confidential the quantity and serial numbers of compliance instruments contained in holding accounts”. The staff proposal seeks to retain the language that requires release of compliance account information while changing the language that requires that holding account information is held confidential. We believe this is a mistake and will result in a less efficient and less competitive market for compliance instruments – and hence higher cap and trade compliance costs.

We believe it is possible to utilize the existing regulatory language in a way that creates the proper balance between public disclosure and protection of confidential information - in a manner that maximizes benefit to the public. CARB should not ever disclose the account balances for individual compliance entities – including compliance accounts or holding accounts. Disclosure of either or both of these accounts will tilt the playing field toward sellers of compliance instruments and allow sellers to charge higher prices for compliance instruments sold to compliance entities with an obvious and time sensitive need for these instruments. Higher prices for compliance instruments will raise overall program compliance costs – and will impact energy users.

Large compliance entities are already greatly disadvantaged under the current regulatory rules because of the strict limits on holding account balances that greatly reduce the compliance flexibility for these large entities. Moreover, individual entities with very large compliance obligations will likely have few options when it comes to the number of entities who they can deal with in these necessarily large transactions. If individual compliance account information is disclosed, sellers can make assumptions about the fact these large entities are holding at or close to the very low and well known holding limits. When combined with public information on emissions (i.e. compliance obligation), these sellers can make a very accurate determination of the compliance instrument need of an individual entity – and determine timing of need based on required surrender dates. Publishing actual holding account balances for individual entities will remove any of the guess work for sellers and allow them to determine precise needs of individual entities. Limited number of sellers, combined with information that allows the sellers to determine what a buyer needs to purchase and by when puts the seller at a distinct advantage over the buyer. This unlevel playing field will lead to a less efficient and less competitive market – and needlessly higher prices for consumers.

A case can be made that confidentiality in an individual entity’s compliance account is as important or perhaps more important than holding account information. This is because for large entities, it is possible to make accurate assumptions as to holding account information – based on the low limits for these accounts. This means that confidentiality of compliance accounts plays an essential role in protecting a compliance entity’s ability to participate in the market in a fair manner and comply at the lowest cost. Lowest cost compliance greatly benefits the public.

In order to maintain a competitive market for compliance instruments, allow regulated parties to comply at lowest cost, and thereby reduce overall costs of the program and impact on consumers - real time information on account balances (both compliance and holding) of individual compliance entities must not be disclosed. We believe the current

regulatory language allows, and the public need for disclosure can be served, by publishing only aggregated information on the compliance account balance of the entire market. This aggregated information on compliance accounts, coupled with entity-specific emissions data and generic compliance/non-compliance determinations for individual entities, we believe, strikes the right balance of informing and protecting the public.

Please don't hesitate to contact me should you have questions regarding this correspondence.

Sincerely,

Ralph J. Moran
Sr. Director, Governmenta & Public Affairs
BP America, Inc.

cc (via email): Edie Chang