



September 27, 2011

*E-Filing via
ARB's Cap-and-Trade Website*

Clerk of the Board
California Air Resources Board
1001 I Street
PO Box 2815
Sacramento, CA 95812

Re: Business Council for Sustainable Energy (BCSE) Comments on the California Air Resources Board's Modified Text for the Proposed California Cap on Greenhouse Gas Emissions and Market-Based Compliance Regulation, including Compliance Offset Protocols

Clerk of the Board:

The Business Council for Sustainable Energy (BCSE, the Council) respectfully submits the following comments on the California Air Resources Board's (ARB's) Modified Text for the Proposed California Cap on Greenhouse Gas Emissions and Market-Based Compliance Regulation, including Compliance Offset Protocols.

The BCSE is a coalition of companies and trade associations from the energy efficiency, natural gas, and renewable energy sectors, and also includes independent electric power producers, investor-owned utilities, public power, commercial end-users, and environmental market service companies. The Council was founded in 1992 and advocates for policies at state, national and international levels that increase the use of commercially-available clean energy technologies, products, and services. The coalition's diverse business membership is united around the revitalization of our economy and creation of a secure and sustainable energy future for America. However, because the BCSE is a diverse coalition, not all members endorse or take positions on the issues included in these comments. The comments contained in this filing represent the position of BCSE as an organization, but not necessarily the view of any particular member with respect to any specific issue.

The Council is a long-time supporter of market-based approaches to tackling climate change and deploying clean energy technologies and commends ARB for its leadership and diligence in implementing California's landmark climate change programs. The BCSE believes a well-designed program—linked with emerging regional, national, and international programs—will allow California to meet its greenhouse gas emission reduction goals in a cost-effective manner and can serve as a model for others looking to implement market-based climate programs.

The BCSE is encouraged by the significant progress ARB has made in 2011 in addressing a range of concerns related to the cap and trade program and offers recommendations on three topics to add to this progress:

- **Linkage:** Continue to recognize the importance of the ability of California's cap-and-trade program to be able to link to other state, regional, or national climate change programs.
- **Offsets:** Work quickly to approve additional offset protocols and make other program adjustments to ensure an adequate supply of offsets at the start of the program.
- **Flexibility for All Obligated Entities:** Adjust the program rules to promote fairness between regulated entities.

Linkage

In its December 15, 2010 comments to ARB, the BCSE emphasized that the California cap-and-trade program should be compatible with other state and regional programs, both to lay the groundwork for a national program and to allow for possible linkages with other carbon markets. The Council continues to encourage ARB to work with other programs to develop linkage agreements.

Offsets

The Council thanks ARB for its clarification on early action in the Proposed Regulation. Offsets are a crucial cost-containment tool and can spur emission reductions in sectors outside the cap. The Council offers recommendations on three areas to improve the Proposed Regulation as it relates to offsets.

In the first compliance period, the supply of offsets will very likely be too limited to cover the eight percent of emissions as allowed for under ARB's proposal. The BCSE was very encouraged to hear ARB staff state during the August 24, 2011 public meeting the consideration of three specific additional offset protocols, including protocols for Conversion of Pneumatic Controllers, N₂O Reductions from Changes in Fertilizer Management, and Emissions Reductions in Rice Management Systems. The first two of these are protocols of BCSE member Winrock International's American Carbon Registry (ACR), and the third is currently going through the ACR approval process for publication this fall. To ensure adequate offset supply and cost containment for the larger cap-and-trade program, the BCSE encourages ARB to work quickly to approve these and other protocols.

To ensure adequate supply of offsets is available, the Council encourages ARB to revise §95854(c) to allow a complying entity to use up to 50% sector-based offsets toward the quantitative offset limit in the second compliance period. The limit as written would likely put further restrictions on the use of offsets, compounding shortages that many analysts predict will occur, particularly in the later years of the program.


While there has been improvement in the language related to the invalidation of offsets, the current process for invalidation still creates large, uninsurable risks for project developers which, in turn, restricts the already limited offset market. The issue of buyer liability is critical to BCSE members seeking to comply under the cap and trade program, as well as those involved as offset verifiers and registries. The BCSE encourages ARB to consider alternatives presented by BCSE members on specific issues related to buyer liability and offset invalidation.

Flexibility for All Regulated Entities

The Council represents non-obligated entities, as well as large and small obligated entities, including independent power producers, investor owned utilities (IOUs), and publicly-owned utilities (POUs). The BCSE believes that to be successful, the Proposed Regulation must, to the extent possible, prevent market manipulation, provide flexible compliance mechanisms to minimize costs, and not discriminate between large and small obligated entities. However, the Proposed Regulation's auction purchase limit and holding limit may pose problems for larger obligated entities and therefore result in discrimination among and between larger and smaller obligated entities and non-obligated entities. The BCSE encourages the Board to reexamine these provisions and whether or not the auction purchase and holding limits should be tied to the size of an obligated entities verified annual emissions.

Thank you for this opportunity to provide comments. Please do not hesitate to contact me with questions or concerns.

Sincerely,



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