

State of California
AIR RESOURCES BOARD

**CAP-AND-TRADE AUCTION PROCEEDS:
FUNDING GUIDELINES FOR AGENCIES THAT ADMINISTER
CALIFORNIA CLIMATE INVESTMENTS**

Resolution 15-37

September 24-25, 2015

Agenda Item No.: 15-7-3

WHEREAS, the California Global Warming Solutions Act of 2006 (Assembly Bill 32 or AB 32; Chapter 488, Statutes of 2006; Health and Safety Code section 38500 et seq.) declares that global warming poses a serious threat to the economic well-being, public health, natural resources, and environment of California;

WHEREAS, AB 32 directed the Air Resources Board (ARB or Board) to create a comprehensive multi-year program to reduce California's greenhouse gas (GHG) emissions to no greater than 1990 levels by 2020, and to maintain and continue reductions in emissions of GHGs beyond 2020;

WHEREAS, Health and Safety Code section 38561(a) directs the Board to prepare and approve a Scoping Plan for achieving the maximum technologically feasible and cost-effective reductions in GHG emissions by 2020;

WHEREAS, Health and Safety Code section 38561(b) requires the Scoping Plan to identify and make recommendations on direct emission reduction measures, alternative compliance mechanisms, market-based compliance mechanisms, and potential monetary and nonmonetary incentives for sources and categories of sources that the Board finds necessary or desirable to facilitate the achievement of the maximum feasible and cost-effective reductions of GHG emissions by 2020;

WHEREAS, Health and Safety Code sections 38562(c) and 38570 authorize ARB to adopt regulations that utilize market-based compliance mechanisms;

WHEREAS, pursuant to the regulatory purposes of Division 25.5 (commencing with Section 38500) of the Health and Safety Code, ARB, in Resolution 11-32, adopted regulations, specified in Sections 95800 to 96022, inclusive of Title 17 of the California Code of Regulations, that utilize a market-based compliance mechanism, and those regulations were later amended and implemented;

WHEREAS, Government Code section 16428.8 created the Greenhouse Gas Reduction Fund as a special fund in the State Treasury to receive all monies, except for

finances and penalties, collected by ARB from the auction or sale of allowances, pursuant to a market-based compliance mechanism established pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code and specified in Sections 95800 to 96022, inclusive, of Title 17 of the California Code of Regulations;

WHEREAS, Health and Safety Code section 39712(b) provides that moneys from the Greenhouse Gas Reduction Fund shall be used to facilitate reductions of greenhouse gas emissions in this state and achieve other co-benefits, where applicable and to the extent feasible;

WHEREAS, beginning in Fiscal Year 2013-14, the State Budget appropriates monies from the Greenhouse Gas Reduction Fund for programs that will reduce greenhouse gas emissions, and provide additional environmental and economic co-benefits, including a subset that offer direct investments in and benefits to disadvantaged communities;

WHEREAS, the programs and projects being funded by the Greenhouse Gas Reduction Fund are referred to as "California Climate Investments";

WHEREAS, Health and Safety Code section 39716 requires the Department of Finance, on behalf of the Governor, and in consultation with the Air Resources Board and any other relevant State entity, to develop and submit to the Legislature a three-year investment plan, consistent with the requirements of Health and Safety Code section 39712, that identifies near-term and long-term greenhouse gas emission reduction goals and targets by sector; analyzes gaps in current State strategies for meeting greenhouse gas reduction goals by sector; and identifies priority investments that facilitate greenhouse gas reductions;

WHEREAS, Health and Safety Code section 39713 requires that the Investment Plan allocate a minimum of 25 percent of the available monies in the Greenhouse Gas Reduction Fund to projects that provide benefits to the disadvantaged communities identified pursuant to Health and Safety Code section 39711, and that the Investment Plan allocate a minimum of 10 percent of the available monies in the Greenhouse Gas Reduction Fund to projects located within disadvantaged communities identified pursuant to Health and Safety Code section 39711;

WHEREAS, associated legislation under Public Resources Code sections 75210 to 75230 establishes additional requirements for certain agencies and programs, including some program-specific percentage targets for expenditures that benefit disadvantaged communities;

WHEREAS, Government Code 16428.9(a) requires State agencies that have been appropriated Greenhouse Gas Reduction Funds prepare an expenditure record prior to expending any monies that describes: the proposed investments, the ways in which the proposed investments further the regulatory purposes of AB 32, the greenhouse gas

emission reductions, the non-greenhouse gas benefits of the proposed investment of funds; and how the State agency will document the result achieved;

WHEREAS, Government Code 16428.9(b) requires ARB to develop guidance for reporting and quantification methods for all State agencies that receive appropriations from the Greenhouse Gas Reduction Fund;

WHEREAS, Health and Safety Code section 39715 requires ARB, in consultation with the California Environmental Protection Agency (CalEPA), to develop funding guidelines for administering agencies that receive appropriations from the Greenhouse Gas Reduction Fund to ensure the requirements of Chapter 4.1 of Division 26, Part 2 of the Health and Safety Code are met (Funding Guidelines), including a component for how administering agencies should maximize benefits for disadvantaged communities;

WHEREAS, Health and Safety Code section 39715 requires that ARB provide an opportunity for public input prior to finalizing the funding guidelines;

WHEREAS, on August 22, 2014, ARB staff released the draft document for public comment entitled "Cap-and-Trade Auction Proceeds Interim Guidance to Agencies Administering Greenhouse Gas Reduction Fund Monies: Investments to Benefit Disadvantaged Communities," developed in accordance with the requirements set forth in AB 1532, SB 535, and SB 862 (Senate Budget and Fiscal Review Committee, Chapter 36, Statutes of 2014);

WHEREAS, ARB staff held three joint public workshops with CalEPA to discuss disadvantaged community benefits in Fresno, California on August 25, 2014, in Los Angeles, California on August 26, 2014, and in Oakland, California on September 3, 2014, as well as a public briefing in Mecca, California on September 10, 2014;

WHEREAS, on September 18, 2014, the Board issued Resolution 14-30 finding that the "Cap-and-Trade Auction Proceeds Interim Guidance to Agencies Administering Greenhouse Gas Reduction Fund Monies: Investments to Benefit Disadvantaged Communities, Senate Bill 535 (De Leon, Chapter 830, Statutes of 2012)" were developed in accordance with the requirements set forth in Health and Safety Code sections 39711, 39712, 39713, 39715, and 39716;

WHEREAS, on September 18, 2014, in Resolution 14-30, the Board directed staff to develop full funding guidelines for consideration by the Board in 2015, consistent with Health and Safety Code section 39715, including provisions to address recordkeeping, reporting, quantification of greenhouse gas reductions and co-benefits, and other measures to ensure robust accountability, transparency, and public access to information on expenditures from the Greenhouse Gas Reduction Fund and the associated benefits;

WHEREAS, in 2015, ARB staff, in consultation with administering agencies, began releasing quantification methodologies to estimate greenhouse gas reductions;

WHEREAS, ARB held more than 35 meetings with community representatives and advocates over the last year on the use of Greenhouse Gas Reduction Fund monies to benefit disadvantaged communities;

WHEREAS, ARB participated in two community events in California's border region in San Diego on May 26, 2015 and in El Centro on May 27, 2015 to inform community advocates and support community participation in the Greenhouse Gas Reduction Fund program;

WHEREAS, on June 16, 2015, ARB staff released a document entitled "Cap-and-Trade Auction Proceeds Funding Guidelines for Agencies that Administer California Climate Investments -- Draft for Public Comment" (Draft Funding Guidelines) that updates the interim guidance on investments to benefit disadvantaged communities as well as providing additional guidance consistent with Health and Safety Code section 39715, Government Code section 16428.9, and Resolution 14-30;

WHEREAS, on June 22, 2015, ARB held a public workshop on the Draft Funding Guidelines in Sacramento, California that was also available through webcast;

WHEREAS, on July 13, 2015, ARB staff released the Supplement to the Draft Funding Guidelines to seek public input regarding transparency requirements for agencies and additional guidance on maximizing benefits to disadvantaged communities;

WHEREAS, ARB held a public workshop on the Draft Funding Guidelines in Los Angeles, California on July 16, 2015 and a meeting on the Draft Funding Guidelines with local stakeholders in Huron, California on July 29, 2015;

WHEREAS, ARB held seven public workshops in August 2015 on the Cap-and-Trade Auction Proceeds Second Investment Plan Draft Concept Paper (Draft Investment Plan Concept Paper) and Draft Funding Guidelines. Workshops were held in Sacramento (on August 3 also available through webcast), in Fresno (August 4 with live video feeds to Modesto and Bakersfield), in Oroville (August 6), in Oakland (August 10), in Fontana (August 12), in Los Angeles (August 12), and in San Diego (August 13). Participants provided input on the Draft Investment Plan Concept Paper and the Draft Funding Guidelines. Over 350 people attended the workshops in person, representing over 240 organizations. During the open comment period, over 70 comment letters were submitted on the Draft Funding Guidelines representing over 150 individuals or organizations;

WHEREAS, on September 4, 2015, ARB staff released the Proposed Funding Guidelines for Agencies that Administer California Climate Investments (Proposed Funding Guidelines), which respond to comments by administering agencies and the public, for consideration by the Board;

WHEREAS, ARB staff proposes that the Board delegate authority to the Executive Officer to develop and implement revisions to the Funding Guidelines to incorporate

appropriate program changes in response to the State Budget (including appropriations for new programs and administering agencies or modifications to existing programs or agencies), any other Greenhouse Gas Reduction Fund legislation, and any CalEPA updates to the identification of disadvantaged communities; which may create the need to develop new or modified requirements for reporting and program implementation; and

WHEREAS, in consideration of the Proposed Funding Guidelines, staff's presentation, and public testimony and comments, the Board finds that:

1. The Proposed Funding Guidelines provide guidance to agencies administering Greenhouse Gas Reduction Fund monies on approaches to focus and prioritize programs on greenhouse gas reductions, maximize benefits to disadvantaged communities, and further the purposes of AB 32;
2. The Proposed Funding Guidelines establish procedures for all agencies to follow in furthering the goals and purposes of the AB 32, Senate Bill 535, Senate Bill 1018 (SB 1018, Senate Committee on Budget and Fiscal Review, Chapter 39, Statutes of 2012), Assembly Bill 1532 (AB 1532, Pérez, Chapter 807, Statutes of 2012), and Senate Bill 862 (SB 862, Senate Budget and Fiscal Review Committee, Chapter 36, Statutes of 2014);
3. The Proposed Funding Guidelines provide direction and advice to agencies to realize the climate benefits included under the Greenhouse Gas Reduction Fund, including co-benefits for disadvantaged communities and California residents, businesses, and public entities;
4. The Proposed Funding Guidelines:
 - a) Establish investment and implementation principles that provide direction to all agencies to help achieve these goals and purposes;
 - b) Establish a process for agency and public involvement in development of quantification methodologies for greenhouse gases and co-benefits;
 - c) Include common elements that all agencies need to include in their guidelines and solicitation materials;
 - d) Describe what information all agencies need to include in completing the Greenhouse Gas Reduction Fund expenditure record required pursuant to SB 1018, including guidance for agencies to complete expenditure records before publicly releasing their final program materials;
 - e) Provide direction to agencies to maximize the benefits to disadvantaged communities, including the importance of outreach to improve the ability of eligible applicants from disadvantaged communities to access these monies;
 - f) Provide minimum targets for investments to benefit disadvantaged communities and criteria for use by agencies to determine whether each project is eligible to be counted toward the overall targets established by Health and Safety Code sections 39713 and 39715; and
 - g) Establish tracking, reporting, and recordkeeping processes that support robust accountability, transparency, and public access to information on expenditures from the Greenhouse Gas Reduction Fund.

5. ARB staff consulted with CalEPA and the administering agencies in developing the Funding Guidelines;
6. ARB has provided opportunities for public input; the workshop discussions, meetings with community advocates and other stakeholders, written public comments, and consultation with administering agencies informed staff's development of the Proposed Funding Guidelines; and
7. The Proposed Funding Guidelines were developed in accordance with the requirements set forth in Government Code 16428.9 and Health and Safety Code sections 39711, 39712, 39713, 39715, and 39716.

NOW, THEREFORE, BE IT RESOLVED that the Board directs the staff to continue developing quantification methodologies consistent with Health and Safety Code section 39715 and Government Code section 16428.9, for greenhouse gas reductions and associated co-benefits from projects receiving Greenhouse Gas Reduction Fund monies and make those methodologies publicly available as described in the Proposed Funding Guidelines.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer or his or her designee to finalize the Funding Guidelines to reflect the staff's proposal and any revisions directed by the Board.

BE IT FURTHER RESOLVED that the Board directs the staff to continue the dialogue with administering agencies, disadvantaged communities, prospective project applicants, and other stakeholders during implementation of the Funding Guidelines.

BE IT FURTHER RESOLVED that the Board delegates to the Executive Officer or his or her designee the authority and responsibility to make future updates to the Funding Guidelines that are needed to address Greenhouse Gas Reduction Fund appropriations made pursuant to the Budget Acts, any other legislation regarding the Greenhouse Gas Reduction Fund, and any CalEPA updates to the identification of disadvantaged communities.

BE IT FURTHER RESOLVED that the Board directs the staff to periodically evaluate the need to consider any substantial amendments to the Funding Guidelines, exclusive of the changes described above, and return to the Board with any recommendations after providing an opportunity for public input and comment.

I hereby certify that the above is a true and correct copy of Resolution 15-37 as adopted by the Air Resources Board.

/S/

Tracy Jensen, Clerk of the Board