

State of California  
AIR RESOURCES BOARD

**California Cap-and-Trade Program**

Resolution 17-21

**July 27, 2017**

Agenda Item No.: 17-8-1

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (ARB or Board) to adopt standards, rules, and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, the Legislature has enacted the Global Warming Solutions Act of 2006 (Assembly Bill 32 or AB 32; Chapter 488, Statutes of 2006; Health & Safety Code section 38500 et seq.), which declares that global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California, and creates a comprehensive multi-year program to reduce California's greenhouse gas (GHG) emissions to 1990 levels by 2020;

WHEREAS, section 38551 of the Health and Safety Code directs that the statewide GHG limit shall remain in place indefinitely, and that emissions reductions be continued and maintained beyond 2020;

WHEREAS, section 38566 of the Health and Safety Code, added pursuant to Senate Bill 32 (SB 32; Chapter 250, Statutes of 2016), further directs that ARB shall ensure that state GHG emissions are reduced to at least 40 percent below the statewide GHG limit no later than December 31, 2030;

WHEREAS, section 38501 to the Health and Safety Code expresses the Legislature's intent that ARB coordinate with State agencies and consult with the environmental justice community, industry sectors, business groups, academic institutions, environmental organizations, and other stakeholders in implementing AB 32; and design emissions reduction measures to meet the statewide emissions limits for GHGs in a manner that minimizes costs and maximizes benefits for California's economy, maximizes additional environmental and economic co-benefits for California, and complements the State's efforts to improve air quality;

WHEREAS, section 38501(c) of the Health and Safety Code declares that California has long been a national and international leader on energy conservation and environmental stewardship efforts, and the targets established pursuant to AB 32 and SB 32 will continue this tradition of environmental leadership by placing California at the forefront of national and international efforts to reduce GHG emissions;

WHEREAS, section 38501(d) of the Health and Safety Code confirms that national and international actions are necessary to fully address the issue of global warming, but action taken by California to reduce GHG emissions will have far reaching effects by encouraging other states, the federal government, and other countries to act;

WHEREAS, section 38501(e) of the Health and Safety Code states by exercising a global leadership role, California will also position its economy, technology centers, financial institutions, and businesses to benefit from national and international efforts to reduce GHG emissions. More importantly, investing in the development of innovative and pioneering technologies will assist California in achieving the 2020 and 2030 statewide limits on GHG emissions and will provide an opportunity for the state to take a global economic and technological leadership role in the reduction of GHG emissions;

WHEREAS, section 38510 of the Health and Safety Code designates ARB as the State agency charged with monitoring and regulating sources of GHG emissions in order to reduce these emissions;

WHEREAS, section 38560 of the Health and Safety Code directs ARB to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective GHG emissions reductions from sources or categories of sources;

WHEREAS, section 38562 of the Health and Safety Code requires ARB to adopt GHG emissions limits and emissions reduction measures by regulation to achieve the maximum technologically feasible and cost-effective reductions in GHG emissions in furtherance of achieving the statewide GHG emissions limit, to become operative beginning on January 1, 2012;

WHEREAS, section 38562(b) of the Health and Safety Code requires ARB, to the extent feasible and in furtherance of achieving the statewide GHG emissions limit, to do all of the following:

Design the regulations, including distribution of emissions allowances where appropriate, in a manner that is equitable, seeks to minimize costs and maximize total benefits to California, and encourages early action to reduce GHG emissions;

Ensure that activities undertaken to comply with the regulations do not disproportionately impact low-income communities;

Ensure that entities that have voluntarily reduced their GHG emissions prior to the implementation of this section receive appropriate credit for early voluntary reductions;

Ensure that activities undertaken pursuant to the regulations complement, and do not interfere with, efforts to achieve and maintain federal and state ambient air quality standards and to reduce toxic air contaminant emissions;

Consider cost-effectiveness of these regulations;

Consider overall societal benefits, including reductions in other air pollutants, diversification of energy sources, and other benefits to the economy, environment, and public health;

Minimize the administrative burden of implementing and complying with these regulations;

Minimize leakage; and

Consider the significance of the contribution of each source or category of sources to statewide GHG emissions;

WHEREAS, the Legislature has enacted AB 197 (Chapter 250, Statutes of 2016), which directs ARB to follow the requirements of section 38562(b) of the Health and Safety Code, consider the social cost of GHG emissions, and prioritize direct emission reductions from sources in California;

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

WHEREAS, section 38570(b) of the Health and Safety Code also directs ARB, to the extent feasible and in furtherance of achieving the statewide GHG emissions limit, to do all of the following before including any market-based compliance mechanism in the regulations:

Consider the potential for direct, indirect, and cumulative emissions impacts from these mechanisms, including localized impacts in communities that are already adversely impacted by air pollution;

Design any market-based compliance mechanism to prevent any increase in the emissions of toxic air contaminants or criteria air pollutants; and

Maximize additional environmental and economic benefits for California, as appropriate.

WHEREAS, section 38570(c) of the Health and Safety Code further directs ARB to adopt regulations governing how market-based compliance mechanisms may be used by regulated entities subject to GHG emissions limits and mandatory emissions reporting requirements to achieve compliance with their GHG emissions limits;

WHEREAS, section 38571 of the Health and Safety Code directs ARB to adopt methodologies for the quantification of voluntary GHG emissions reductions and regulations to verify and enforce any voluntary GHG emissions reductions that are authorized by ARB for use to comply with GHG emissions limits established by ARB; the adoption of methodologies is exempt from the rulemaking provisions of the Administrative Procedure Act;

WHEREAS, section 38564 of the Health and Safety Code directs ARB to consult with other states, the federal government, and other nations to identify the most effective strategies and methods to reduce GHG emissions, manage GHG control programs, and to facilitate the development of integrated and cost-effective regional, national, and international GHG reduction programs;

WHEREAS, California is a participant in the Western Climate Initiative (WCI) with other Partner jurisdictions considering implementation and linkage of GHG cap-and-trade programs;

WHEREAS, over the course of four years, the WCI Partner jurisdictions coordinated on developing recommendations for GHG reporting, compliance offsets, and cap-and-trade programs as models for jurisdictions to develop their own programs;

WHEREAS, the WCI Partner jurisdictions developed recommendations in a public and transparent manner with over 130 public documents; 86 stakeholder meetings, webinars, and calls; and received comments on 48 occasions;

WHEREAS, by linking California's Program to WCI Partner jurisdictions, the combined Programs will result in more emission reductions, generate greater potential for lower cost emissions reductions, enhance market liquidity, and will increase opportunities for GHG emissions reductions for covered sources relative to what could be realized through a California-only program;

WHEREAS, establishing and implementing a California and regional GHG cap-and-trade program requires ARB and WCI Partner jurisdictions to harmonize specific regulatory and operational provisions, including, but not limited to, sources subject to compliance obligations, emissions reporting requirements, cost-containment mechanisms, evaluation of regulatory baselines for existing offset protocols, procedures for developing new offset protocols, compliance instrument tracking system development and operation, auction services, financial services, and market monitoring and oversight;

WHEREAS, ARB and the WCI Partner jurisdictions established a regional administrative organization in November 2011, similar to that used by other regional

cap-and-trade programs, called Western Climate Initiative, Inc., to meet the goal of regionally coordinated administration of cap-and-trade services;

WHEREAS, the Board adopted the Final Regulation Order establishing a GHG cap-and-trade program for California; the Regulation first became effective January 1, 2012, and includes the following elements:

Addresses emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulfur hexafluoride (SF<sub>6</sub>), and nitrogen trifluoride (NF<sub>3</sub>);

Identifies the program scope: starting in 2012, electricity, including imports, and large (emissions ≥25,000 metric tons carbon dioxide equivalent (MTCO<sub>2</sub>e) per year) stationary sources are included; starting in 2015, distributors of transportation fuels, natural gas, and other fuels are included;

Establishes a declining aggregated emissions cap on included sectors. The cap starts at 162.8 million allowances in 2013, which is equal to the emissions forecast for that year. The cap declines approximately 2 percent per year in the initial period (2013–2014). In 2015, the cap increases to 394.5 million allowances to account for the expansion in program scope to include fuel suppliers. The cap declines at approximately 3 percent per year between 2015 and 2020. The 2020 cap is set at 334.2 million allowances;

Provides for distribution of allowances through a mix of direct allocation and auction in a system designed to reward early action and investment in energy efficiency and GHG emissions reductions; allowances are distributed for the purposes of price containment, emissions leakage prevention, ratepayer benefit, transition assistance, and fulfillment of AB 32 statutory objectives;

Provides for distribution of allowances to industrial covered entities on the basis of direct and indirect GHG costs with the exception of indirect GHG costs for purchased electricity. These indirect costs for electricity are compensated through electrical distribution utilities;

Establishes a market platform for allowance auction and sale;

Establishes cost-containment mechanisms and market flexibility mechanisms, including trading of allowances and offsets, allowance banking, a 2-year compliance period and two 3-year compliance periods, the ability to use offsets for up to 8 percent of an entity's compliance obligation, and an allowance reserve that provides allowances at fixed prices to those with compliance obligations;

Establishes a mechanism to link with other GHG trading programs and approve the use of compliance instruments issued by a linked external GHG trading program;

Establishes requirements and procedures for ARB to issue offset credits according to offset protocols adopted by the Board;

Includes four offset protocols adopted by the Board as part of the regulation;

Establishes a robust enforcement mechanism that will discourage gaming of the system and deter and vigorously punish fraudulent activities; and

Provides an opt-in provision for entities whose annual GHG emissions are below the threshold to voluntarily participate in this program.

WHEREAS, the California Public Utilities Commission and some industrial covered entities requested that ARB allocate allowances directly to industrial covered entities for the GHG costs associated with purchased electricity;

WHEREAS, Senate Bill 350 (SB 350, Statutes of 2015) directs ARB to “identify and adopt appropriate policies, rules, or regulations to remove regulatory disincentives preventing” electrical distribution utilities from reducing GHG emissions through increased transportation electrification, including allowance allocation to recognize increased electric sector GHG emissions from transportation electrification;

WHEREAS, investor-owned electrical distribution utilities are required to consign all allocated allowances to auction, natural gas suppliers are required to consign a minimum percentage of allowances to auction, and that percentage increases every year. Consignment of these allocated allowances allows for GHG cost pass through, which encourages consumer energy conservation, and auction proceeds can be used for GHG emissions reductions and/or returned to ratepayers to protect them from increased energy costs;

WHEREAS, the Board adopted amendments to the Regulation in 2012 to make targeted implementation changes that became effective September 1, 2012;

WHEREAS, the Board adopted amendments to the Regulation in 2013 to formally link the Cap-and-Trade Program with the Province of Québec’s cap-and-trade-program that became effective October 1, 2013, making California and Québec allowances and offsets available for compliance purposes in both jurisdictions;

WHEREAS, the Board adopted amendments to the Regulation in 2014 to adopt an additional compliance offset protocol for Mine Methane Capture, and make additional implementation changes that became effective July 1, 2014;

WHEREAS, the Board adopted a second set of amendments to the Regulation in 2014 to adopt updates to the compliance offset protocols for Livestock, Ozone Depleting Substances, and U.S. Forests, and make additional implementation changes that became effective January 1, 2015;

WHEREAS, the Board adopted amendments to the Regulation in 2015 to adopt an additional compliance offset protocol for Rice Cultivation, adopt an update to the compliance offset protocol for U.S. Forests, and make additional implementation changes that became effective November 1, 2015;

WHEREAS, staff has proposed amendments to the Cap-and-Trade Regulation; the amended Regulation is set forth in Attachment A hereto and includes the following elements:

A framework for GHG allowance budgets from 2021 through 2050, with the 2030 cap set at 200.5 million MTCO<sub>2e</sub>;

Modifying the Allowance Price Containment Reserve beginning in 2021 to contain a single tier and set the Reserve Sale Price as the sum of the Auction Reserve Price plus a fixed amount initially equal to the difference between the Auction Reserve Price and the highest Allowance Containment Reserve Price tier in 2020;

A process for transferring State-owned allowances that remain unsold for more than 24 months to the Allowance Price Containment Reserve;

Linkage with the Ontario cap-and-trade program beginning in 2018;

Inclusion of provisions to allow for two new forms of linkage: Retirement-Only Limited Linkage and Retirement-Only Agreement. These provisions specify that any future such linkage would require further public process and Board approval;

Modifications to include requirements for electricity generating facilities to implement and comply with the U.S. EPA Clean Power Plan such as by including all electrical generating units (EGUs) regardless of emissions in the Cap-and-Trade Program, aligning compliance periods, calculating compliance targets, and creating a backstop mechanism;

Modification or creation of several product-based benchmarks for the third compliance period;

Clarifications to the allowed uses of electrical distribution utility (EDU) and natural gas supplier allocated allowance value;

Extension of EDU and natural gas supplier allowance allocation for ratepayer benefit beyond 2020;

Extension of allowance allocation to universities, public service facilities, and water agencies beyond 2020;

Modifications to the requirements about the return of free allowance allocation;

Modifications to ensure full accounting of emissions from electricity imports within the California Independent System Operator (CAISO) Energy Imbalance Market (EIM), including through the retirement of allowances that remain unsold at auction for more than 24 months to account for these EIM emissions;

Expansion of eligibility requirements for allowance retirement through the Voluntary Renewable Electricity Program;

Modifications to remove the qualified export adjustment to imported electricity in 2018, continue the limited exemption for waste-to-energy facilities through the second compliance period, and provide a limited exemption for liquid natural gas providers through the second compliance period; remove the exemption for natural gas hydrogen fuel cell producers starting in 2018; change the low bleed pneumatic device exemption to an intermittent bleed pneumatic device exemption starting in 2019; modify limited exemptions to entity compliance obligations to better reflect the most recent GHG emissions data reports; and add an exemption for CO<sub>2</sub> emissions resulting from food and beverage fermentation;

Requirement to list an offset project no later than one year after offset project commencement;

Clarifications that an offset project would terminate if reporting is not continuous, allow additional time to report in the first reporting period, require signed attestations with each document submittal, and expand interim data collection methods;

Modifications to the offset regulatory compliance requirement to limit the time period an offset project is ineligible to receive ARB offset credits and to more clearly define project-related activities;

Modifications to verification requirements for sequestration projects to simplify verifier rotation and to streamline timing of verification services, completion of verification services, and conflict of interest requirements;

Changes to the mechanism of ARB offset credit issuance, including allowing the Authorized Project Designee to request issuance to any party, more clearly limit ARB offset issuance to projects located in the United States, and the order of registry offset credit retirement;

Modifications to forestry offset project reversals and invalidations;

Elimination of all provisions of the early action offset program;

Modifications to reorganize and further clarify Compliance Instrument Tracking System Service account registration requirements;



Changes to corporate association disclosures to streamline requirements; and

Modifications to auction and reserve sale administration to provide clarity, consistency and efficiency.

WHEREAS, staff conducted eleven public workshops, including two public workshops on linkage, provided informal regulatory text, and also participated in numerous other meetings with various stakeholders to provide additional opportunities to participate in the regulatory development process;

WHEREAS, the Board has considered the community impacts of the proposed regulation, including environmental justice concerns as well as the social cost of carbon;

WHEREAS, the Board believes the success of California's Cap-and-Trade Program is predicated on GHG regulations that are clear, consistent, enforceable, and transparent;

WHEREAS, the Board is committed to ensuring that reductions in the percentage of allowances given to California manufacturing businesses do not discourage investments in upgrading existing facilities for production efficiency and growth and reductions in air pollutants, investment in new technologies and competitiveness;

WHEREAS, the Board believes decarbonizing the natural gas system is critical to meeting the State's long-term climate goals and is reinforced by the Short-Lived Climate Plan developed pursuant to SB 1383 (Lara, Chapter 395, Statutes of 2016);

WHEREAS, entities with legacy contracts that were entered into prior to AB 32 may not have an appropriate mechanism for recovery of GHG costs associated with the Cap-and-Trade Regulation;

WHEREAS, staff has prepared a document entitled "Staff Report: Initial Statement of Reasons—Public Hearing to Consider the Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms" (ISOR), which presents the rationale and basis for the proposed regulation and identifies the data, reports, and information relied upon;

WHEREAS, the proposed regulatory language was made available to the public at least 45 days prior to the public hearing to consider the proposed regulation, with two subsequent comment periods of at least 15 days to add documents to the record and propose additional modifications to the regulatory text;

WHEREAS, Senate Bill 1018 (Government Code section 12894(f)) was enacted requiring State agencies to notify the Governor that the agency intends to take action to link with another GHG emissions trading program; and the Governor must make specified findings prior to the agency taking action to approve the linkage;

WHEREAS, on January 30, 2017, ARB sent a letter to the Governor requesting the Governor's consideration of the four findings that are necessary before ARB can adopt a regulation that would link the GHG emissions trading programs developed by California and the Canadian Province of Ontario;

WHEREAS, on March 16, 2017, the Governor provided ARB a letter stating that the four requirements of Government Code section 12894(f) have been satisfied and describing additional steps the Board will take prior to implementing linkage with the Ontario cap-and-trade program;

WHEREAS, in consideration of the ISOR, written comments, and public testimony it has received to date, the Board finds that:

Staff's proposed regulatory text meets the statutory requirements identified in section 38562 of the Health and Safety Code including equitable and cost effective distribution of allowances to maximize total benefits to California; minimizing leakage, and cost effectiveness;

Staff's proposed regulatory text meets the statutory requirements for a market-based mechanism identified in section 38570 of the Health and Safety Code, including consideration of the potential for direct; indirect, and cumulative emission impacts; prevention of increases in emissions of toxic air contaminants or criteria pollutants; and maximizing additional environmental and economic benefits for California;

Staff has considered the social cost of GHG emissions and prioritized emission reduction rules that result in direct emission reductions pursuant to section 38562.5 of the Health and Safety Code;

Staff's proposed regulatory text was developed in an open public process, in consultation with affected parties through public workshops, individual meetings, and other outreach efforts;

Ontario's program for GHG emission reductions is at least as stringent as California's program;

The scope of Ontario's cap-and-trade program is consistent with the scope of California's Cap-and-Trade Program;

Ontario's GHG reporting program is rigorous and will provide accurate GHG emissions data to support a cap-and-trade program;

Ontario's GHG reporting program verification requirements are consistent with California's requirements;

Ontario's cap-and-trade program is designed with mechanisms consistent with California's Cap-and-Trade Program to prevent the ability of entities to exert market power;

Ontario's auction mechanics are consistent with those in California's Cap-and-Trade Program and will enable the administration of joint auctions;

Ontario's entity verification requirements are consistent with those in the California Cap-and-Trade Program;

Ontario's compliance offset program design is consistent with California's Cap-and-Trade Program requirements;

Ontario's offset criteria are consistent with AB 32 and California's Cap-and-Trade Program;

Ontario's offset verification requirements are consistent with those recommended by WCI and included in California's Cap-and-Trade Program;

Ontario's process for approving offset protocols utilizes the same rigorous criteria and oversight as California's Cap-and-Trade Program;

Staff's proposed regulatory text is predicated on GHG regulations that are clear, consistent, enforceable, and transparent and helps meet the goals of AB 32 and SB 32; and

Staff's proposed regulatory text would provide for a linked Cap-and-Trade Program between California and Ontario, effective January 1, 2018, where allowances and compliance offsets issued by each jurisdiction would be fungible across both Programs.

WHEREAS, the WCI coordination process to have a linked cap-and-trade program between California and any of the WCI Partner jurisdictions as described in the ISOR does not set a precedent for other mechanisms for California to accept compliance instruments from other types of programs;

WHEREAS, ARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary of Natural Resources Agency under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA; California Code of Regulations, title 14, section 15251(d)), and ARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60007);

WHEREAS, ARB prepared an environmental analysis for the amended Regulation for purposes of the California Environmental Quality Act under its certified regulatory program (Public Resources Code section 21 080.5) in a document entitled *Draft*

*Environmental Analysis prepared for the Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation* (Draft EA), included as Appendix B to the ISOR circulated for public review from August 5, 2016 through September 19, 2016 (the Draft EA was also circulated as Appendix J to the Proposed Compliance Plan for the federal Clean Power Plan);

WHEREAS, the Draft EA evaluated potential significant adverse and beneficial impacts from implementation of both the proposed amendments to the Cap-and-Trade regulation and the Proposed Compliance Plan for the federal Clean Power Plan, and stated that these actions could result in beneficial impacts to GHGs and energy demand; could result in less than significant or no impacts to aesthetics, agriculture and forest resources, geology, soils, and mineral resources (relating to the offset protocols), hazards and hazardous materials, hydrology and water quality, land use and planning, noise, population, employment, and housing, public services, recreation, transportation and traffic, and utilities and service systems; could result in potentially significant and unavoidable adverse impacts to aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, geology, soils, and mineral resources, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, recreation, and transportation and traffic, primarily due to construction activities; and could also result in significant cumulative impacts in certain resource areas.

WHEREAS, staff reviewed written comments received on the Draft EA during the initial 45-day comment period and subsequent 15-day comment periods and prepared the *Final Environmental Analysis Prepared for the Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation* (Final EA) and prepared written responses to those comments in a document entitled *Responses to Comments on the Draft Environmental Analysis Prepared for the Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation and California's Compliance Plan for the Federal Clean Power Plan* (Responses to EA Comments);

WHEREAS, on July 17, 2017, staff posted on ARB's webpage the Final EA, which includes minor revisions to the Draft EA, and the Response to EA Comments;

WHEREAS, prior to the duly noticed public hearing held on July 27, 2017, staff provided the Final EA and the Response to EA Comments to the Board for consideration; and

WHEREAS, on July 17, 2017, the Legislature passed, and on July 25, 2017, the Governor signed into law, AB 398. AB 398 amends certain provisions of AB 32 to take effect starting January 1, 2021, and expressly supports ARB's authority to continue the Cap-and-Trade Program; and the Board recognizes that additional regulatory modifications to the Cap-and-Trade Program will be required through a new rulemaking process to implement the AB 398 requirements for the post-2020 Cap-and-Trade Program;

NOW, THEREFORE, BE IT RESOLVED that the Board certifies that the Final EA, as set forth in Attachment B to this resolution, was completed in compliance with ARB's

certified regulatory program to meet the requirements of CEQA, reflects the agency's independent judgment and analysis, and was presented to the Board, whose members reviewed and considered the information before taking action to adopt the amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms set forth in Attachment A to this Resolution.

BE IT FURTHER RESOLVED that the Board approves the Responses to EA Comments as set forth in Attachment C to this resolution.

BE IT FURTHER RESOLVED that in consideration of the Final EA and the Responses to EA Comments, the Board adopts the Findings and Statement of Overriding Considerations as set forth in Attachment D to this resolution.

BE IT FURTHER RESOLVED that the Board adopts the amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms set forth in Attachment A to this Resolution.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to finalize the Final Statement of Reasons and submit the rulemaking package to the Office of Administrative Law by August 4, 2017.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to report to the Board at least annually on the status of the linked Cap-and-Trade Program.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to work with any remaining entities with legacy contracts and their non-industrial counterparties to resolve the parties' issues related to recovery of greenhouse gas costs, or, as necessary, to propose regulatory amendments to be in place no later than the allocation of vintage 2021 allowances to ensure reasonable transition assistance for greenhouse gas costs throughout the term of the legacy contract.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to work with natural gas utilities to evaluate and propose, as necessary, post-2020 program regulatory amendments to ensure adequate rate payer protection as the State pursues strategies to decarbonize the natural gas system.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to work with the three existing waste-to-energy facilities that are covered by the Cap-and-Trade Program to provide transition assistance for a compliance obligation beginning in 2018 and ending when landfill diversion is required to achieve a 75 percent diversion rate by 2025.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to evaluate and propose, as necessary, post-2020 cap adjustment factors consistent with the methodology used in 2015-2017 allocation calculations for sectors that have been

determined to be highly trade exposed with highly emissions intensive products that have greater than 50 percent process emissions.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to propose subsequent regulatory amendments to provide a quantity of allocation, for the purposes of minimizing emissions leakage, to industrial entities for 2018 through 2020 by using the same assistance factors in place for 2013 through 2017.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to evaluate appropriate quantification methodologies for additional electrical distribution utility allocation that would provide ratepayer benefit for the Cap-and-Trade Program cost burden associated with transportation electrification load growth (in recognition of the requirements of SB 350).

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to consider requiring all electrical distribution utilities to consign all allocated allowances to auction, and to use auction proceeds for specific purposes to further the goals of AB 32 and SB 32.

BE IT FURTHER RESOLVED that, at least six months prior to any of the following taking effect in a linked jurisdiction, the Executive Officer will provide a report to the Board that includes an assessment of environmental factors and will provide a recommendation for Board action if appropriate. The report to the Board will also include an opportunity for public review and input.

Changes to the stringency of the Program, including changes to the cap;

The adoption of a new compliance offset protocol or significant amendments to an existing compliance offset protocol;

Linkage to another cap-and-trade program; and

Any other change to a linked jurisdiction's Program which would significantly affect the stringency, integrity, enforceability or successful functioning of the combined Programs.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to work with Ontario to complete pre-linkage activities prior to the linkage effective date of January 1, 2018. These activities should include those steps needed to ensure implementation readiness, which may include, but are not limited to, testing of the auction platform to allow for a joint auction among California, Québec, and Ontario; testing of the tracking system to enable transfers across program participants; and, a review (and adjustments as needed) of processes, procedures, and systems of California's, Québec's and Ontario's programs to ensure consistency and compatibility.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to coordinate with the Government of Ontario to ensure that both jurisdictions maintain enforceable linked cap-and-trade programs, and that the implementation of the cap-and-trade programs in linked jurisdictions is as rigorous as California's implementation of its Cap-and-Trade Program. This coordination should include the reporting and verification of GHG emissions, reports on implementation of offset programs, market surveillance, and updates on investigations and enforcement actions.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to coordinate with the Government of Ontario to implement the linked cap-and-trade programs in an efficient and transparent manner, and directs the Executive Officer to document the coordination process in a written agreement with the Government of Ontario and provide it to the Board and make it available to the public.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to work with linked jurisdictions to ensure that information is shared between the jurisdictions to ensure robust surveillance, oversight, and enforcement, and that enforcement is applied in an equivalent manner in all linked jurisdictions.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to provide a linkage readiness report to the Secretary of California Environmental Protection Agency and the Governor's office by November 1, 2017, as directed in the Governor's March 16, 2017, letter to ARB.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue working with the non-linked WCI Partner jurisdictions to harmonize programs by developing appropriate regulatory amendments necessary to formally link GHG emissions reduction programs, and by developing appropriate policy and technical protocols necessary to effectively implement the linked jurisdictions' programs.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue collaboration with CAISO as a revised accounting algorithm for EIM is developed and implemented and to propose amendments to reflect accounting based on the revised EIM for GHG reporting, as appropriate.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to assess the impacts of the climate change program on disadvantaged communities, as required by AB 197, AB 32, and SB 32. As part of the annual report through the Joint Legislative Committee on Climate Change Policies, the Board will present information, to the extent it is available, on direct, indirect and cumulative emission impacts measures taken by local air districts and others to prevent increases in emissions of toxic air contaminants and criteria pollutants. Said report should include findings from the adaptive management plan and other studies such as those conducted by the Office of Environmental Health Hazard Assessment.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to initiate a new rulemaking process to implement the AB 398 requirements for the post-2020 Cap-and-Trade Program.

I hereby certify that the above is a true and correct copy of Resolution 17-21 as adopted by the Air Resources Board.

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Rana McReynolds, Clerk of the Board



Resolution 17-21

July 27, 2017

**Identification of Attachments to the Board Resolution**

- Attachment A:** Final Regulation Order to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms
- Attachment B:** Final EA Prepared for the Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms, released to the public July 17, 2017.
- Attachment C:** Responses to EA Comments are found at:  
<https://www.arb.ca.gov/regact/2016/capandtrade16/capandtrade16.htm>  
released to the public July 17, 2017.
- Attachment D:** Findings and Statement of Overriding Considerations  
(Distributed at the July 27, 2017 Board Hearing).