

**State of California
Environmental Protection Agency
AIR RESOURCES BOARD**

**AMENDMENTS TO THE CALIFORNIA CAP ON GREENHOUSE GAS EMISSIONS
AND MARKET-BASED COMPLIANCE MECHANISMS REGULATION**

Final Statement of Reasons

May 2018

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I. GENERAL

A. Action Taken in This Rulemaking

In this rulemaking, the California Air Resources Board (CARB or the Board) is adopting amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation (California Cap-and-Trade Regulation or Regulation) to (1) clarify that the Cap-and-Trade Regulation requires a successor entity after a change in ownership to be responsible for the outstanding, pretransfer compliance obligation of the predecessor covered entity and (2) clarify the process for setting the Auction Reserve Price, by comparing the California Auction Reserve Price with the Auction Reserve Prices set by all linked jurisdictions (currently Québec and Ontario) when expressed in a common currency and selecting the highest value.

The amendments were developed pursuant to the requirements of the California Global Warming Solutions Act of 2006, also known as Assembly Bill 32 (AB 32). The amendments are codified at Title 17, Subchapter 10, Article 5, sections 95835 and 95911.

The amendments to the Regulation were initiated with the posting of the notice of public hearing on January 30, 2018, which indicated that the Board would consider the amendments at a public hearing scheduled for March 22, 2018, and publication of the notice in the California Regulatory Notice Register on February 2, 2018. A Staff Report (or ISOR) entitled “Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation,” was released January 30, 2018, and is incorporated by reference herein. The full text of the proposed regulatory amendments, and documents relied upon, were made available for public review on January 30, 2018. The public comment period commenced on February 2, 2018, and ran for 45 days to March 19, 2018. The public did not submit comments on the proposed amendments during the 45-day comment period.

At the March 22, 2018 public hearing, the Board approved Resolution 18-4, adopting the final regulatory amendments.

B. Mandates and Fiscal Impacts to Local Governments and School Districts

The Board has determined that this regulatory action will not result in a mandate to any local agency or school district the costs of which are reimbursable by the state pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code.

C. Updates to the Initial Statement of Reasons

Non-substantial grammatical changes were made to section 95911 subd. (c)(3)(D).

Health and Safety Code section 38562 was incorrectly listed as reference citation in the 45-day Notice. Additionally, regarding the economic impact analysis, the proposed regulation will not benefit worker safety.

The page numbers cited for Hagos, S. M., L. R. Leung, J.-H. Yoon, J. Lu, and Y. Gao (2016) cited as a Reference were incorrectly listed as pages 357-1363. The correct pages are 1357-1363.

II. CONSIDERATION OF ALTERNATIVES

Staff is required to consider alternatives to the proposed amendments for the Cap-and-Trade Regulation. As discussed in Chapter IX of the ISOR, staff analyzed the following alternatives to the proposed amendments to the Cap-and-Trade Regulation:

- Take no action (i.e., do not revise the Cap-and-Trade Regulation)
- Modify only the change of ownership provision
- Modify only the Auction Reserve Price provision

For the reasons set forth in the ISOR, the Board determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulatory action was proposed, or would be as effective and less burdensome to affected private persons, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law than the action taken by the Board.

III. SUMMARY OF COMMENTS AND AGENCY RESPONSE

Although no written comments were received during the 45-day comment period for the amendments, one person presented oral comments at the March 22, 2018 Board Hearing. Listed below is the individual who provided comments during the Board Hearing:

| Commenter | Affiliation |
|-------------|--|
| Harvey Eder | In his personal capacity and on behalf of the Public Solar Power Coalition |

1. **Comment:** CARB should pursue zero emission vehicles as trucks and batteries are now cost effective. The Air Resources Board isn't doing enough to follow legislative intent that fossil fuels, especially imports, should not be used. There needs to be studies on "dirty gases" such as formaldehyde and benzene and health studies indicate health cost savings would be very large for reductions in the emission of these gases. CARB should also be aware of developments in the solar industry, especially concentrated solar and seasonal storage options.

Agency Response: This comment is outside of the scope of this rulemaking. This comment is irrelevant, as it is not specifically directed at CARB's proposed action or to the procedures followed by CARB in proposing or adopting the action.

IV. PEER REVIEW

Health and Safety Code Section 57004 sets forth requirements for peer review of identified portions of rulemakings proposed by entities within the California Environmental Protection Agency, including CARB. Specifically, the scientific basis or scientific portion of a proposed rule may be subject to this peer review process. Here, CARB determined that the rulemaking at issue does not contain a scientific basis or a scientific portion subject to peer review, and thus no peer review as set forth in section 57004 was or is needed to be performed.