State of California
AIR RESOURCES BOARD

California Cap-and-Trade Program

Resolution 11-32

October 20, 2011

Agenda Item No.: 11-8-1

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 California Global Warming Solutions Act of 2006 (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 and creates a comprehensive multi-year program to reduce California's greenhouse gas (GHG) emissions to 1990 levels by 2020;

WHEREAS, AB 32 added section 38501 to the Health and Safety Code, which 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 greenhouse gases 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 program established pursuant to AB 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 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 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;
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> Ensure that activities undertaken to comply with the regulations do not disproportionately impact low-income communities;
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> Ensure that entities that have voluntarily reduced their GHG emissions prior to the implementation of this section receive appropriate credit for early voluntary reductions;
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> 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 emissions of greenhouse gases.

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 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, California is participating in the Western Climate Initiative (WCI), with several Canadian Partner jurisdictions considering implementing GHG cap-and-trade programs and formally linking them to form a regional market for compliance instruments;

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 likely reduce the compliance costs of covered sources more than 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 a number of

specific regulatory and operational provisions, including, but not limited to, sources subject to compliance obligations, cost-containment mechanisms, evaluation of regulatory baselines for existing offset protocols, procedures for developing new offset protocols, market tracking system development and operation, auction services, financial services, and market monitoring and oversight;

WHEREAS, ARB and the WCI Partner jurisdictions are working towards establishing a Regional Administrative Organization similar to other established cap-and-trade programs (e.g., Regional Greenhouse Gas Initiative) to meet the goal of regionally coordinated administration of cap-and-trade services;

WHEREAS, staff has completed a Final Regulation Order establishing a GHG cap-and-trade program for California; the regulation is set forth in Attachment A hereto and includes the following elements:

Addresses emissions of carbon dioxide ($CO_2$), methane ($CH_4$), nitrous oxide ($N_2O$), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulfur hexafluoride ($SF_6$), and nitrogen trifluoride ($NF_3$);

Identifies the program scope: starting in 2012, electricity, including imports, and large (emissions >25,000 metric tons carbon dioxide per year) industrial facilities 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 will be distributed for the purposes of price containment, industry transition and assistance, and fulfillment of AB 32 statutory objectives;

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 two 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 to be considered for adoption by the Board as part of this regulatory package;

Establishes a mechanism to include international offset programs from an entire sector within a region;

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, staff conducted over forty public workshops regarding the Final Regulation Order during the period 2008–2011, 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 Final Regulation Order, including environmental justice concerns;

WHEREAS, staff had prepared a document entitled "Staff Report: Initial Statement of Reasons for Proposed Regulation to Implement the California Cap-and-Trade Program" (ISOR), which presents the rationale and basis for the Final Regulation Order and identifies the data, reports, and information relied upon;

WHEREAS, public hearings and other administrative proceedings were held in accordance with the provisions of Chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code;

WHEREAS, the Final Regulation Order was made available to the public at least 10 days prior to the public hearing to consider the Final Regulation Order;

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

GHG emissions associated with entities covered by the cap-and-trade regulation account for about 85 percent of GHG emissions in the State;

Covered entities can reduce emissions to comply with the cap-and-trade regulation using a variety of currently available GHG reduction strategies, including those complementary measures identified in the Scoping Plan;

In addition to the complementary measures identified in the Scoping Plan, the cap-and-trade regulation is expected to significantly reduce GHG emissions. The cap-and-trade regulation will ensure GHG emissions levels in 2020 are equal to 1990 levels;

The cap-and-trade regulation was developed using the best available economic and scientific information and will achieve the maximum technologically feasible and cost-effective GHG emissions reductions from covered entities and offset projects;

The GHG emissions reductions resulting from the implementation of the cap-and-trade regulation are expected to be real, permanent, quantifiable, verifiable, and enforceable by ARB, and the cap-and-trade regulation complements and does not interfere with other air quality efforts;

The cap-and-trade regulation meets the statutory requirements identified in section 38562 of the Health and Safety Code;

The cap-and-trade regulation meets the statutory requirements for a market-based mechanism identified in section 38570 of the Health and Safety Code;

The cap-and-trade regulation was developed in an open public process, in consultation with affected parties, through numerous public workshops, individual meetings, and other outreach efforts;

The cap-and-trade regulation is predicated on GHG regulations that are clear, consistent, enforceable, and transparent and helps meet the goals of AB 32;

The benefits to human health, public safety, public welfare, or the environment justify the costs of the cap-and-trade regulation;

The cost-effectiveness of the cap-and-trade regulation has been considered, and the regulation will achieve cost-effective GHG emissions reductions;

The cap-and-trade regulation is consistent with ARB's environmental justice policies and will equally benefit residents of any race, culture, or income level;

Robust reporting and verification requirements associated with the cap-and-trade regulation are necessary for the health, safety, and welfare of the people of the State; and

No reasonable alternative considered, or that has otherwise been identified and brought to the attention of ARB, would be more effective at carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected entities than the proposed regulation.

WHEREAS, the Board further finds that:

The integrity of offsets is critical to the success of a cap-and-trade program;

It is in the interest of the State of California to pursue a comprehensive approach that aligns the incentives provided by AB 32 programs, including the cap-and-trade regulation, with statewide policy for handling solid waste, including recycling, remanufacturing of recovered materials in state, composting and anaerobic digestion, waste-to-energy facilities, landfilling, and the treatment of biomass;

Electricity rates should create the appropriate incentives for electricity conservation, greenhouse gas efficient technologies, and efficient distributed electricity generation such as combined heat and power;

Carbon pricing is an important function of the cap-and-trade regulation, and that it is equally important that if allowance value provided to electric distribution utilities for ratepayer benefit is returned directly to customers it is consistent with State efforts to promote energy efficiency and energy conservation;

Incentives created by the cap-and-trade program should motivate investment and innovation in clean technology;

The cap-and-trade regulation will establish a greenhouse gas market that allows business flexibility to comply with the regulation while also ensuring strong oversight and transparency;

State universities serve an important public service in providing affordable higher education;

Water rates should create the appropriate incentives for water conservation, greenhouse gas efficient technologies, and the efficient supply and use of water;

Carbon pricing is an important function of the cap-and-trade regulation, and that it is equally important that if allowance value is used for the benefit of water ratepayers it is used consistent with State efforts to promote efficient use and supply of water and water conservation; and

The cap-and-trade program should properly account for the emissions associated with generation and transmission of both in-State and imported electricity in accordance with AB 32.

WHEREAS, at a public hearing held December 16, 2010, the Board considered the proposed regulations for sections 95800 to 96023, title 17, California Code of Regulations (CCR). The Board considered the ISOR released on October 28, 2010, and adopted Resolution 10-42 directing several modifications proposed by staff and guidance on implementation. The Board advised staff that additional changes were necessary. As a result, on July 25, 2011, the first Notice of Public Availability of Modified Text and Availability of Additional Documents (1st 15-Day Change Notice) was issued. The public comment period for the 1st 15-Day Change Notice ended at 5:00 p.m. on August 11, 2011;

WHEREAS, additional modifications to the regulatory text were proposed in a Second Notice of Public Availability of Modified Text (2nd 15-Day Change Notice). The additional modifications addressed comments ARB staff received in the first 15-day Change Notice and were the result of additional staff analysis and stakeholder engagement. The 2nd 15-Day Change Notice was posted September 12, 2011. The public comment period for the 2nd 15-Day Change Notice ended at 5:00 p.m. on September 27, 2011;

WHEREAS, in the Final Statement of Reasons, staff is preparing responses to comments received on the record during the initial 45-day comment period, comments presented at the December 16, 2010 Board hearing both orally and in writing, comments received during the first 15-day Change Notice released July 25, 2011, and the comments received during second 15-Day Change Notice released September 12, 2011;

WHEREAS, ARB has a regulatory program certified under Public Resources Code section 21080.5, and pursuant to this program ARB conducts environmental analyses to meet the requirements of the California Environmental Quality Act (CEQA);

WHEREAS, ARB staff prepared an environmental analysis for the cap-and-trade regulation pursuant to its certified regulatory program; this analysis is contained in the Functional Equivalent Document (FED) in Appendix O to the ISOR;

WHEREAS, the FED, which sets forth a programmatic analysis of the potential environmental impacts associated with the cap-and-trade regulation and the offset protocols, including potential alternatives to the regulation, was released for public review on October 28, 2010, with a 45-day written comment period from November 1, 2010 to December 16, 2010;

WHEREAS, in Resolution 10-42, the Board also directed the Executive Officer to complete the regulatory modifications and the environmental review process in accordance with the requirements of the Administrative Procedure Act and CEQA under ARB's certified regulatory program, and to either take final action to adopt the proposed regulation or return the matter to the Board for further consideration;

WHEREAS, ARB received written comments on the potential environmental impacts of the cap-and-trade regulation during the initial 45-day public comment period, and the two subsequent 15-day comment periods associated with the two Notices of Public Availability of Modified Text;

WHEREAS, ARB staff has reviewed the written comments on the potential environmental impacts received during the comment periods and prepared written responses to these comments;

WHEREAS, on October 10, 2011, ARB released a document called the *Response to Comments on the Functional Equivalent Document Prepared for the California Cap on GHG Emissions and Market-Based Compliance Mechanisms* (Response to FED Comments) which includes a summary of written comments received on the FED that raise significant environmental issues and staff's written responses as set forth in Attachment B to this Resolution;

WHEREAS, in the FED, ARB committed to pursue an adaptive management approach to monitor and respond as appropriate to address unanticipated, adverse, localized air quality impacts and impacts from the U.S. Forest Protocol on special states, species, sensitive habitats, and federally protected wetlands as part of the implementation of the cap-and-trade regulation and the U.S. Forest Protocol;

WHEREAS, on October 10, 2011, ARB released the proposed *Adaptive Management Plan for the Cap-and-Trade Regulation* (Adaptive Management Plan) that describes ARB's commitment and process to monitor for unanticipated and unintended adverse impacts related to localized air quality resulting from implementation of the cap-and-trade regulation and adverse forestry impacts from implementation of the U.S. Forest Protocol, and ARB's commitment to developing and implementing appropriate actions to address any impacts identified as set forth in Attachment C to this Resolution;

WHEREAS, ARB has the authority under sections 39600, 39601, and 38500 et seq. of the Health and Safety Code to adopt standards, rules and regulations to address unanticipated and unintended adverse impacts related to localized air quality resulting from implementation of the cap-and-trade regulation and adverse forestry impacts from implementation of the U.S. Forest Protocol;

WHEREAS, at a duly noticed public hearing held on October 20, 2011, staff presented the Response to FED Comments and the Adaptive Management Plan for Board for approval, and the Final Regulation Order for adoption;

WHEREAS, the Board has reviewed and considered the FED, the Response to FED Comments, and the Adaptive Management Plan;

WHEREAS, CEQA and ARB's certified regulatory program require that before taking final action on any proposal for which significant environmental comments have been raised, the decision maker must approve a written response to each such comment; and

WHEREAS, CEQA and ARB's certified regulatory program require that any proposal for which significant adverse environmental impacts have been identified during the review process shall not be approved if there are feasible mitigation measures or feasible alternatives which would substantially reduce such adverse impacts.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby certifies that the FED was completed in compliance with CEQA under ARB's certified regulatory program, reflects the agency's independent judgment and analysis, and was presented to the Board whose members reviewed, considered, and approved the information therein prior to acting on the proposed regulation.

BE IT FURTHER RESOLVED that the Board approves the written responses to comments raising significant environmental issues included in the Response to FED Comments.

BE IT FURTHER RESOLVED that in consideration of the FED and the Response to FED Comments, and in accordance with the requirements of CEQA and ARB's certified regulatory program, 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 approves the *Adaptive Management Plan for the Cap-and-Trade Regulation*.

BE IT FURTHER RESOLVED that the Board adopts sections 95800 to 96023, title 17, California Code of Regulations (including the four compliance protocols incorporated by reference in the regulation: the Compliance Offset Protocols for Livestock Projects, Ozone Depleting Substances Projects, Urban Forest Projects, and U.S. Forest Projects) as set forth in Attachment A to this Resolution.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to finalize the FSOR and submit the rulemaking package to Office of Administrative Law by October 28, 2011.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue discussions with stakeholders to identify and propose, as necessary, during the initial implementation of the cap-and-trade program, potential amendments to the Regulation including, but not limited to the following areas:

1. Provisions to balance flexibility and accumulation of market power including auction frequency, and holding and purchase limits or other methods;

2. Definition of Resource Shuffling to: (a) provide appropriate incentives for accelerated divestiture of high-emitting resources by recognizing that these divestitures can further the goals of AB 32; and (b) ensure changes in reported emissions from imported electricity that serves California do not result merely in a shift of emissions within the Western Electricity Coordinating Council region, but reduces overall emissions;

3. Allocation of allowances for emissions associated with natural gas combustion emissions as written in section 95852 of the cap-and-trade regulation; and

4. Distribution of allowance value associated with cap-and-trade compliance costs from using electricity to supply water, and the expected ability of allowance allocation and other measures to adequately address the incidence of these costs equitably across regions of the State.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue to review information concerning the emissions intensity, trade exposure, and in-State competition of industries in California, and to recommend to the Board changes to the leakage risk determinations and allowance allocation approach, if needed, prior to the initial allocation of allowances for the first or second compliance period, as appropriate, for industries identified in Table 8-1 of the cap-and-trade regulation, including refineries and glass manufacturers.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue to work with stakeholders to further develop the allowance allocation approach for the petroleum refining sector and associated activities in the second and third compliance periods. This evaluation should include additional analysis of the Carbon Weighted Tonne approach and treatment of hydrogen production, coke calcining, and other activities that may operate under a variety of ownership structures.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to initiate a study to analyze the ability of the agricultural industry, including food processors, to pass on regulatory costs to consumers, given domestic and international competition and continually fluctuating global markets. The Executive Officer shall identify and propose regulatory amendments, as appropriate.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to identify and propose new benchmarks and allowance allocation for manufacturing of new products in California, as appropriate. The allowance allocation should incorporate efforts to minimize leakage.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to monitor protocol development and to propose technical updates to adopted protocols, as needed.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to develop implementation documents laying out the process for review and consideration of new offset protocols, including a description of how staff will evaluate additionality.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue to work with Cal/Recycle and other stakeholders to characterize lifecycle emissions reduction opportunities for different options for handling solid waste, including recycling, remanufacturing of recovered materials in state, composting and anaerobic digestion, waste-to-energy facilities, landfilling, and the treatment of biomass. The Executive Officer shall identify and propose regulatory amendments, as appropriate, so that AB 32 implementation, including the cap-and-trade regulation, aligns with statewide waste management goals, provides equitable treatment to all sectors involved in waste handling, and considers the best available information. The Executive Officer shall report to the Board on progress in summer of 2012.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue to evaluate the definition of position holders relative to railroads and other specific types of fueling operations, work with interested stakeholders, and propose modifications to the regulations as appropriate to become effective prior to the start of the second compliance period.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to coordinate with stakeholders to develop a mechanism to achieve GHG emission reductions from the national security/military sector (NAICS 92811) beginning January 1, 2014.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to coordinate with the State universities and stakeholders to evaluate options for compliance, with amendments to the regulation as appropriate, including options on the use of auction revenue and report back to the Board in summer of 2012.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to monitor progress on bilateral negotiations between counterparties with existing contracts that do not have a mechanism for recovery of carbon costs associated with cap-and-trade for industries receiving free allowances pursuant to Section 95891, and identify and propose a possible solution, if necessary. For fixed-price contracts between independent generators and Investor Owned Utilities, the Board further directs the Executive Officer to work with the California Public Utilities Commission (CPUC) to encourage resolution between contract counterparties.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to work with the CPUC and Publicly Owned Utilities to reflect the findings of the Board that the impact of the cap-and-trade regulation on electricity rates creates appropriate incentives to further the goals of AB 32.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to work with the CPUC and the Publicly Owned Utilities to reflect the finding of the Board that if

allowance value provided to the electric distribution utilities for ratepayer benefit is returned directly to customers, it is consistent with State efforts to promote energy efficiency and energy conservation.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to work with the CPUC, California Energy Commission, California Independent System Operator and stakeholders to evaluate requirements for first jurisdictional deliverers of electricity and to report back to the Board in summer of 2012.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to coordinate with the Market Surveillance Committee and stakeholders to evaluate the effectiveness of the cost containment provisions of this program, including the Allowance Price Containment Reserve, offsets, banking and the three-year compliance period.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to contract with an external entity and work closely with regulated entities and other stakeholders to evaluate potential market conditions, trading dynamics, the Allowance Price Containment Reserve, and other key design features of the program prior to the beginning of the compliance obligation on January 1, 2013. The Executive Officer will make recommendations for changes, if any, necessary to address potential market design issues that are identified by or from these evaluations.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue to coordinate with the Commodity Futures Trading Commission and California State Attorney General's office on market oversight of the program, including the possibility of tracking forward contracts for sales of allowances.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to develop recommendations for the appropriate use of auction revenue. These recommendations should consider the Board's direction in Resolution 10-42.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to partner with the air quality management districts and air pollution control districts in the implementation of the cap-and-trade regulation, including, but not limited to, an evaluation of the impacts of the cap-and-trade program on industrial source greenhouse gas permitting and implementation of the Adaptive Management Plan. The Board further directs the Executive Officer to report back periodically to the Board on the nature and extent of this Partnership with the first report due in the first quarter of calendar year 2012.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue working with the WCI Partner jurisdictions to harmonize the programs by developing appropriate regulatory amendments necessary to formally link the programs, developing appropriate policy and technical protocols necessary to effectively implement the jurisdictions' programs, and working toward the establishment of a Regional Administration Organization.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer, as described in Resolution 10-42, to update the Board at least annually on the status of the cap-and-trade program. These annual updates should include elements described in Resolution 10-42, as well as the following:

The effectiveness of the cap-and-trade program;

How the cap-and-trade program is stimulating investment and innovation in clean technology;

Shifts in transportation fuel use and supply;

The status of existing offset protocols, and potential new offset protocols that could be proposed to the Board;

The status of carbon capture and sequestration technology; and

Federal greenhouse gas activities, including federal equivalency for a State program.

FILED
OCT 27 2011
Resources Agency of California

I hereby certify that the above is a true and correct copy of Resolution 11-32, as adopted by the Air Resources Board.

Mary Alice Morency, Clerk of the Board

Resolution 11-32

October 20, 2010

**Identification of Attachments to the Board Resolution**

**Attachment A:** Final Regulation Order for the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms, title 17, California Code of Regulations, section 95800 to 96023, including the four Final Compliance Offset Protocols.

**Attachment B:** Response to FED Comments as found at: http://www.arb.ca.gov/cc/capandtrade/fed/staff-responses.pdf

**Attachment C:** Adaptive Management Plan as found at: http://www.arb.ca.gov/cc/capandtrade/adaptive_management/plan.pdf

**Attachment D:** Findings and Statement of Overriding Considerations, distributed at the October 20, 2011 Board hearing.