

## Attachment A

### CALIFORNIA CAP-AND-TRADE PROGRAM

#### Clarifying Resource Shuffling Definition

Staff proposes to work with stakeholders to develop regulatory language to be considered by the Board in mid-2013 that further clarifies the definition of resource shuffling in the cap-and-trade regulation. The language will propose actions or "safe harbors" that are not considered resource shuffling. The safe harbors are expected to include:

1. Changes in electricity deliveries due to use of electricity needed to comply with California's Renewable Portfolio Standard.
2. Compliance with state or federal laws and regulations, including the Emission Performance Standard [Pub. Util. Code § 8340 *et seq.*].
3. Compliance with requirements related to maintaining reliable grid operations.
4. Changes in deliveries as a result of court orders or certain settlements that are legally binding.
5. Retirement of resources.
6. Termination of a contract or divestiture of resources for reasons other than reducing GHG compliance obligation.
7. Early termination of a contract for, or full or partial divestiture of, resources subject to the Emissions Performance Standard.
8. Expiration of a contract.
9. Short-term trading activity under contracts with terms of no more than 12 months, for either specified or unspecified power, based on economic decisions including congestion costs but excluding implicit and explicit GHG costs.
10. Short-term trading activity under contracts with terms of no more than 12 months, or resulting from an economic bid that clears the CAISO day-ahead or real-time market, for either specified or unspecified power, based on economic decisions including implicit and explicit GHG costs and congestion costs, unless such activity is linked to the selling off of power from, or assigning of a contract for, electricity from a power plant covered by the Emission Performance Standard, that is not covered under paragraphs 11, 12 or 13.
11. Operational emergencies or transmission or distribution constraints, including constraints caused by the inability to obtain or retain transmission rights, transmission curtailments or outages.

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12. Changes in deliveries because a first deliverer has surplus electricity (more than enough to meet demand) as a result of the first deliverer being required to take electricity from specific generating units (e.g., electricity contracts with "must-take" or "must-run" provisions.)
13. Provision of electricity that is required to make up for transmission losses associated with deliveries from out-of-state power plants.

Regulatory language will also be developed to provide greater specificity regarding activities that constitute resource shuffling. These activities are expected to include:

1. Substituting relatively lower emission electricity to replace electricity generated at a high emission power plant (i.e., a coal resource) that is covered by SB 1368 but does not meet California's Emissions Performance Standard, in order to reduce a compliance obligation.
2. Assigning a long term contract for high emission electricity specified in (1) to a third party, for the purpose of reducing compliance obligation

ARB staff will work with entities that hold long-term contracts or ownership shares in these facilities to address their movement towards divestment in order to ensure that the steps taken do not constitute resource shuffling.