

The Cap-and-Trade Regulation and Resource Shuffling Frequently Asked Questions

Resource shuffling is defined in section 95802(a) of the Cap-and-Trade Regulation (Regulation), and section 95852(b)(2) of the Regulation prohibits resource shuffling. Section 95852(b)(2) also lists certain activities that constitute resource shuffling and “safe harbor” activities that do not constitute resource shuffling. This document covers how the Air Resource Board (ARB) will help electricity utilities and importers avoid resource shuffling and how ARB will enforce the prohibition.

How Will ARB Help Entities Ensure that They Do Not Violate the Resource Shuffling Prohibition?

Utilities that hold long-term contracts or ownership shares in facilities that do not meet the Senate Bill 1368 Emissions Performance Standard are prohibited from renewing these contracts by the terms of Senate Bill 1368, and are encouraged to divest earlier than contract termination dates when possible. ARB will work with utilities to address their transition towards divestment to ensure that the steps they take do not constitute resource shuffling. Although ARB believes that the current regulation governing resource shuffling provides sufficient clarity, ARB is willing to assist stakeholders in determining whether such activities might constitute resource shuffling. The stakeholder must provide specific details on contemplated activities to discuss with ARB to determine whether the contemplated activity constitutes resource shuffling.

How Will ARB Enforce The Resource Shuffling Prohibition?

ARB will vigorously enforce the prohibition pursuant to California Health and Safety Code and the Regulation. There are a range of possible enforcement actions that could occur depending on the severity of the resource shuffling and related facts.

Where Can I Find Additional Information and Ask Questions?

Please contact the Cap-and-Trade Hotline with any questions at (916) 322-2037.