

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF A PROPOSED CALIFORNIA CAP ON GREENHOUSE GAS EMISSIONS AND MARKET-BASED COMPLIANCE MECHANISMS REGULATION, INCLUDING COMPLIANCE OFFSET PROTOCOLS

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adoption of a proposed regulation to implement a California greenhouse gas emissions cap-and-trade program, including compliance offset protocols.

DATE: December 16, 2010

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m. on December 16, 2010, and may continue at 8:30 a.m. on December 17, 2010. Please consult the agenda for the hearing, which will be available at least ten days before December 16, 2010, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT **OVERVIEW**

Sections Affected: Proposed adoption of California Code of Regulation, title 17, new article 5, which contains new sections 95800, 95801, 95802, 95810, 95811, 95812, 95813, 95814, 95820, 95821, 95830, 95831, 95832, 95840, 95841, 95850, 95851, 95852, 95852.1, 95852.2, 95852.3, 95853, 95854, 95855, 95856, 95857, 95870, 95890, 95891, 95892, 95893, 95910, 95911, 95912, 95913, 95914, 95915, 95920, 95921, 95922, 95940, 95941, 95942, 95943, 95970, 95971, 95972, 95973, 95974, 95975, 95976, 95977, 95978, 95979, 95980, 95981, 95982, 95983, 95984, 95985, 95986, 95987, 95988, 95990, 95991, 95992, 95993, 95994, 95995, 95996, 95997, 95998, 96010, 96011, 96012, 96013, 96020, 96021, and 96022.

Background:

The California Global Warming Solutions Act of 2006 (Assembly Bill 32; Stats. 2006, Chapter 488) (AB 32) authorizes ARB to implement a comprehensive, multi-year program to reduce greenhouse gas (GHG) emissions in California. AB 32 required ARB to develop a scoping plan to reduce GHG emissions in California to 1990 levels by 2020. ARB's adopted Scoping Plan includes a comprehensive set of actions designed

to reduce GHG emissions in California, improve the environment, reduce dependence on foreign oil, diversify energy sources, save energy, create new jobs, and enhance public health. Meeting the goals of AB 32 requires a coordinated set of strategies to reduce GHG emissions throughout the economy that work within a comprehensive tracking, reporting, verification and enforcement framework. The Scoping Plan includes a variety of measures to achieve AB 32 goals, including direct regulations, performance-based standards, and market-based mechanisms. The measures included in the Scoping Plan continue to be developed through an open public process and will be in place by 2012. Many of the measures in the Scoping Plan complement and reinforce each other.

The Scoping Plan directs ARB staff to develop a cap-and-trade regulation, which is a type of market-based compliance mechanism. Once implemented, the cap-and-trade regulation will provide a fixed limit on GHG emissions from the sources responsible for about 85 percent of the state's total GHG emissions. The cap-and-trade regulation will reduce GHG emissions by applying a declining aggregate cap on GHG emissions, and will also create a flexible compliance system through the use of tradable instruments (allowances and offset credits). The regulation is designed to link up with partners in other jurisdictions, beginning with the Western Climate Initiative (WCI).

In 2007, California helped establish the Western Climate Initiative, a cooperative effort of seven U.S. states and four Canadian provinces (the "partners") that are collaborating to identify, evaluate, and implement policies to reduce GHG emissions, including the design and implementation of a regional cap-and-trade program. ARB has consulted with the partners in formulating the proposed regulation, and anticipates linking to programs promulgated by the partners as they are adopted.

ARB staff conducted an extensive public process during the development of the California cap-and-trade regulation. Through 2009 and 2010, staff developed the overall options for program design and development. ARB staff conducted extensive public consultation, including more than 35 public meetings, to discuss and share ideas with the general public and key stakeholders on the appropriate structure of the cap-and-trade program. In November 2009, staff released a conceptual framework for the cap-and-trade regulation, called the Preliminary Draft Regulation (PDR), and held a workshop on the draft in December. Staff received over 130 written comments in response to the PDR. Staff also met regularly with individual stakeholders to hear their concerns and recommendations. ARB staff collected public comments during each public workshop, which focused on key topics and program design components.

ARB also received input and advice from the Market Advisory Committee and two advisory committees created under AB 32: the Economic and Technology Advancement Advisory Committee (ETAAC) and the Environmental Justice Advisory Committee (EJAC). In addition, in May 2009 ARB, in conjunction with Cal/EPA, convened the Economic and Allocation Advisory Committee (EAAC), which included economic, financial, and policy experts. The EAAC provided recommendations on cap-and-trade

program design and reviewed ARB's updated economic analysis on the Scoping Plan that was completed in March 2010.

Description of the Proposed Regulatory Action

After considering the comments received, ARB staff is proposing a regulation that would establish the framework and requirements for California's GHG cap-and-trade program. Cap and trade is a regulatory approach that would control GHGs from major emission sources ("covered entities") by setting a firm limit (the "cap") on GHG emissions while employing market mechanisms to cost-effectively achieve the emission reduction goals. The cap for GHG emissions from major sources would commence in 2012 and decline over time, achieving emissions reductions throughout the program's duration. The cap is measured in metric tons of carbon dioxide equivalent (MTCO_{2e}). Covered entities will be able to buy permits to emit (allowances) at auction, purchase allowances from others, or purchase offset credits (the "trade"). Allowances and offset credits are more fully discussed below.

The cap-and-trade program would establish the total amount of GHG emissions that major sources would be allowed (permitted) to emit. ARB would distribute allowances to emit GHGs, and the total number of allowances created would be equal to the total amount ("aggregate cap") set for cumulative emissions from all covered entities. Each allowance would permit the holder to emit one MTCO_{2e} of GHG. Covered entities include major GHG emitting sources, such as electricity generation, including imports, and large stationary sources (i.e. refineries, cement production facilities, oil and gas production facilities, glass manufacturing facilities, food processing plants) that emit more than 25,000 MTCO_{2e} per year, as well as natural gas and propane fuel providers and transportation fuel providers.

The cap-and-trade program is one of the key measures included in the Scoping Plan to reduce GHG emissions. Covered entities under the cap may also be subject to other measures, standards, and regulations, including improved building efficiency standards, vehicle efficiency measures and applicable air pollution regulations.

Applicability

Starting in 2012, the proposed regulation would include covered entities emitting more than 25,000 MTCO_{2e}. This includes GHG emissions from electricity generation, including imports; industrial combustion at large stationary sources; and industrial process emissions for which adequate quantification methods exist. The program will expand in 2015 to include fuel distributors to address emissions from transportation fuels, and from combustion of other fossil fuels not covered directly at large sources in the initial phase of the program. The first three years of the proposed regulation are known as the "first compliance period," and the second three years are known as the "second compliance period."

The first compliance period would include sources responsible for more than one-third of the economy-wide emissions in California. Starting with the second compliance

period, the program would include major sources of GHG emissions responsible for about 85 percent of emissions. ARB could choose to expand the applicability of the program to include additional covered entities over time based on new information.

The proposed regulation defines and includes requirements for covered entities, opt-in covered entities, voluntarily associated entities, and other registered participants. Opt-in covered entities are industries with processes and operations that would make them covered entities except that their emissions do not exceed the 25,000 MTCO₂e threshold, and that choose to participate in the cap-and-trade program. Opt-in covered entities are subject to the proposed regulation as if they exceeded the 25,000 MTCO₂e threshold, including reporting, verification and compliance requirements and eligibility for allowance distribution. Voluntarily associated entities are parties such as the general public, investment banks, land use easements and private citizen groups that would be allowed to hold allowances and offsets, and would be subject to registration and reporting requirements. Other registered participants include verifiers or verification bodies, which could be private or government organizations; these participants cannot participate in trading and cannot hold compliance instruments. Under the proposed regulation, covered entities and opt-in covered entities would be required to register with ARB, report their emissions annually, acquire compliance instruments, and surrender compliance instruments to match their emissions for the compliance period. Voluntarily associated entities would also need to apply and register with ARB.

The proposed cap-and-trade regulation would apply to the following GHGs: carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulfur hexafluoride (SF₆), and nitrogen trifluoride (NF₃). In a separate rulemaking action, ARB's existing mandatory reporting regulation is also being amended to support the cap-and-trade program.

Compliance Instruments

The proposed regulation would create two kinds of "compliance instruments" to allow covered entities to meet their obligations under the cap: allowances and offset credits. Approved compliance instruments would be issued by ARB or other programs that are approved by the Board. Each allowance or offset credit would represent one MTCO₂e.

Allowances

The cap would be divided into annual budgets that specify the number of allowances created for each year from 2012 through 2020. The initial 2012 allowance budget is based on the best estimate of actual emissions in 2012 for those sources that would be covered at the start of the cap-and-trade regulation. The cap would then decline each year beginning in 2013, and fewer allowances would be issued on an annual basis. In 2015, the program would expand to cover providers of transportation fuels and residential and commercial fuels. Therefore, the initial 2015 allowance budget reflects the addition of these GHG emissions, with the increase based on the best estimate of the actual emissions in 2015 for those sources added to the program that year. The

cap will then decline until 2020. The 2020 cap will be set at a level designed to allow California to achieve the AB 32 target in 2020.

The allowances will be distributed through a combination of free allocation and sale at auction. The proposed regulation includes a basic framework for the distribution of allowances. Staff anticipates significant comments on this framework, and will consider those comments in working to develop a more specific system for allowance distribution that can be incorporated into the final regulation.

Offset Credits

An offset credit is a compliance instrument that represents a reduction or removal of one MTCO_{2e} of GHGs resulting from an activity not covered by the cap that can be measured, quantified, and verified. This credit can then be sold and used by a covered entity to meet a portion of its compliance obligation under the regulation. Covered entities can use offset credits to satisfy up to eight percent of the entity's total compliance obligations. Although the source that produces an offset would not be covered under the regulation, it can generate reductions for use by entities that must comply with the cap. Offset credits would need to meet criteria identified in the proposed regulation that demonstrate that the emission reductions are real, permanent, verifiable, enforceable, quantifiable, and additional.

The proposed regulation also includes a process for offset credits from qualified existing offset projects operating under specific offset protocols to be accepted into the compliance offsets program. The proposed regulation also establishes a framework for accepting sector-based offset credits from developing countries, though additional evaluation would be needed before such credits could come into the program.

Offset Protocols

ARB is proposing four compliance offset protocols for the Board to consider as part of the regulation: Compliance Offset Protocol for U.S. Ozone Depleting Substances Projects, Compliance Offset Protocol for Livestock Manure (Digester) Projects, Compliance Offset Protocol for Urban Forest Projects, and Compliance Offset Protocol for U.S. Forest Projects. The Board will consider each of these protocols as part of the proposed regulation and staff is proposing that approval of the regulation will include approval of these offset protocols. Projects using the offset protocols are subject to verification and enforcement requirements that are specified in the proposed regulation. The protocols are incorporated into the regulation by reference, and changes will require future Board action. However, changes to quantification methodologies are exempt from the Administrative Procedure Act (APA). An offset project operator using ARB approved protocols would need to publicly list its project and register with ARB or an ARB approved Offset Protocol Registry, which could include private or other government entities.

Linking to Other Cap-and-Trade Programs

The proposed regulation includes general requirements for linking to other programs. Establishing linkage with other programs will require ARB approval under the APA before allowances and/or offset credits from an external program can be used for compliance with California's regulation. The regulation does not propose linking to any specific programs at this time. Four other WCI Partner jurisdictions (New Mexico, British Columbia Ontario, and Quebec) are moving forward to initiate their cap-and-trade programs in 2012. ARB staff will evaluate those programs in 2011 and expects to make recommendations to the Board on whether linkages to these WCI programs can be in place when California's program starts in 2012.

Registration and Accounts

Under the proposed regulation, ARB would be responsible for tracking information regarding compliance instrument ownership, including transfers of ownership. The proposed regulation will require entities to register with ARB and provide information to ARB regarding ownership and submittal of compliance instruments. ARB will also require reporting of information regarding certain transactions between market participants. Some participants submitting information could be entities that do not have compliance obligations or that are not located within California. All covered entities would be required to register and create an account with ARB or designated account administrator to comply with the regulation. Voluntarily associated entities would need to register with the tracking system to hold ARB allowances or offsets.

The California Cap-and-Trade Market Tracking System (MTS) would track compliance instrument ownership, submittals and transactions. The primary goal of the MTS is to support ARB in effective implementation of the proposed regulation and to reduce the costs and administrative burden associated with long-term regulation responsibilities. The MTS will also provide information necessary for a secure, liquid, and transparent allowance market. ARB staff is working closely on development of the MTS with our partners in the WCI, since coordinated approaches to a tracking system will simplify linking the individual programs into a regional market system.

Compliance Requirements for Covered Entities

The regulation would apply an emissions threshold to determine the entities that would have a regulatory compliance obligation under the program. The inclusion threshold for each covered entity is based on the subset of GHG emissions that generate a compliance obligation for that entity. Fuel suppliers will be covered starting in 2015 based on a threshold applied to emissions associated with combustion of the fuels they deliver. Any entity whose emissions exceed the threshold in any year of a compliance period has a compliance obligation for that compliance period and the next compliance period, unless it has shut down all processes. For an entity that has shut down all processes, units, and supply operations subject to reporting, an emissions data report must be submitted for the year in which a facility or supplier's GHG-emitting processes

and operations ceased to operate, and for the first full year of non-operation following a permanent shutdown. The verification requirements in section 95103 of the Mandatory Reporting Requirements do not apply to the first full year of non-operation following a permanent shutdown.

The proposed regulation includes three-year compliance periods with the first period commencing on January 1, 2012. A compliance period is the length of time for which covered entities must submit compliance instruments equal to their verified GHG emissions. Covered entities would be required to submit a portion of the compliance instruments annually, with the remaining due following the end of the three-year compliance period. Establishing compliance periods that last for three years (instead of one year) provides some compliance flexibility.

When the covered entity surrenders the compliance instruments, ARB permanently retires them. If a covered entity does not surrender sufficient compliance instruments by the compliance date, the regulation would require the entity to cover its deficit by submitting additional allowances.

Greenhouse Gas Emission Reductions

Staff estimates that implementation of the proposed regulation would reduce GHG emissions by 18 to 27 MMTCO₂e in 2020.

Documents Incorporated by Reference

- (1) ASTM 6751-08, "Standard Specification for Biodeisel Fuel Blendstock (B100) for Middle Distillate Fuels" approved September 15, 2007, revised October 1, 2008;
- (2) ASTM D1835-05, "Standard Specification for Liquefied Petroleum (LP) Gases;" April 1, 2005;
- (3) ASTM D6751 - 09a, "Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels," approved September 15, 2007, revised October 1, 2008;
- (4) ASTM D6866 – 10, "Standard Test Methods for Determining the Biobased Content of Solid, Liquid, and Gaseous Samples Using Radiocarbon Analysis," August 6, 2010 and
- (5) Z'berg-Nejedly Forest Practices Act of 1973, as amended January 1, 1998.

The following documents are ARB-drafted documents that will be incorporated by reference into the cap-and-trade regulation when it is adopted. Any changes to these documents will be made available in accordance with the Administrative Procedure Act (Government Code section 11340 et seq.). The final date of these documents, if approved, will be the date of final adoption by ARB.

Compliance Offset Protocol for Forest Projects

Compliance Offset Protocol for Livestock Manure (Digester) Projects

Compliance Offset Protocol for U.S. Ozone Depleting Substances Projects

Compliance Offset Protocol for Urban Forest Projects

COMPARABLE FEDERAL REGULATIONS

This regulation is not mandated by federal law or regulations, and there are no comparable federal regulations.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared an Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled "Initial Statement of Reasons: Proposed Regulation to Implement the California Cap-and-Trade Program".

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing on December 16, 2010.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons identified in this notice, or may be accessed on ARB's website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to Mr. Steve Cliff, Manager of the Program Evaluation Branch, at (916) 322-7194 or Ms. Brieanne Aguila, Air Pollution Specialist at (916) 324-0919.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Ms. Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-4011, or Ms. Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB's website for this rulemaking at <http://www.arb.ca.gov/regact/2010/capandtrade10/capandtrade10.htm>

ECONOMIC ANALYSIS

Two models were used for the economic analysis of the proposed regulation. The Energy 2020 model was used to estimate the potential GHG emission reductions and the changes in investment and fuel use. The Environmental Dynamic Revenue Analysis Model (E-DRAM) was used to estimate the macroeconomic impacts of the proposed cap-and-trade regulation on the statewide economy including impacts on gross state product, personal income, and employment, based in part on outputs from Energy 2020. These analyses are presented in 2007 dollars and focus on the impacts of the proposed regulation in 2020.

Under the proposed regulation, projected economic growth would continue virtually on par with current forecasts. At likely allowance prices (\$15 to \$30 in the year 2020), gross state product will grow annually by about 2.3 percent instead of 2.4 percent. Impacts on long-term projected growth rates in personal income and employment are similarly small.

Investment in more energy efficient vehicles, buildings and industrial processes will help reduce fuel use between 2 and 4 percent in 2020. These reductions will help offset potential increases in the price of electricity, natural gas, and gasoline. In 2020, net expenditures (i.e., investment less fuel savings) are estimated to slightly increase by approximately 0.2 percent.

ARB's economic analysis is not meant to predict the increased growth in sectors that could result because of new opportunities created by imposing a carbon price, such as those that design or manufacture renewable technologies, or predict the creation of so called "green jobs." This analysis can therefore be considered a cautious estimate of the potential statewide impacts from the imposition of a cap-and-trade program.

The economic analysis also focuses exclusively on the economic effects in California of implementing the cap-and-trade program, and does not consider the avoided costs of inaction. The potential effects of climate change that are expected to occur in California, such as increased water scarcity, reduced crop yield, sea level rise, and increased incidence of wildfires, could cause severe economic impacts. While California has developed a Climate Adaptation Strategy to help alleviate these potential costs, the risk of potentially high economic costs from climate change in California remains real.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulation are presented below.

Costs to State Government and Local Agencies

The Executive Officer has determined that the proposed regulatory action would create costs or savings, as defined in Government Code sections 11346.5(a)(5) and 11346.5(a)(6), to State agencies or in federal funding to the State. The proposed regulatory action would create costs and would impose a mandate on some State and local agencies, but would not create costs or impose a mandate on school districts. At least eight California public universities, several municipal utilities, two correctional facilities and the California Department of Water Resources would have a compliance obligation under the proposed regulation. These entities would be required to surrender allowances or offsets equal to the amount of their GHG emissions during the compliance period.

Because the regulatory requirements apply equally to all covered entities and unique requirements are not imposed on local agencies, the Executive Officer has determined that the proposed regulatory action imposes no costs on local agencies that are required to be reimbursed by the State pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, and does not impose a mandate on local agencies or school districts that is required to be reimbursed pursuant to section 6 of Article XIII B of the California Constitution.

Costs to Businesses and Private Individuals

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The Executive Officer has determined that representative private persons and businesses would be affected by the cost impacts from the proposed regulatory action. Representative private persons and businesses that do not exceed the emissions threshold would not be directly regulated under the proposed action, but would be indirectly affected by changes to the cost of using fossil-fuel based energy. Pursuant to Government Code section 11346.5(a)(7)(C), the Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, and little or no impact on the ability of California businesses to compete with businesses in other states.

The proposed regulation imposes direct costs on businesses that are required to quantify and report their GHG emissions and acquire and surrender compliance instruments. Regulated businesses may face additional indirect costs due to increased energy and input prices, and some businesses might be impacted based on the compliance path they choose to meet their obligations under the proposed regulation. However, the proposed regulation would not impose sufficient direct or indirect costs to eliminate businesses in California. It is not possible to quantify the number of businesses that will be created in response to opportunities that arise as a result of the proposed regulation. However, staff believes that startups in emerging sectors such as renewable energy and biofuel production could represent significant numbers of new, small and medium sized businesses.

Therefore, in accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not eliminate existing businesses within the State of California, but would affect the creation of new businesses or the expansion of existing businesses currently doing business in California. The proposed regulatory action would not eliminate jobs within the State of California, but would affect the creation of jobs within California.

ARB estimates that 360 businesses or covered entities would participate in the proposed cap-and-trade program from the year of initial implementation through 2020. These businesses include: electricity generators; electricity importers; industrial facilities including cement plants, cogeneration facilities, hydrogen plants, petroleum refiners,

and general stationary combustion facilities; and many fuel providers including wholesalers of gasoline, distillate, propane, and natural gas.

In general, most small businesses in regulated sectors would not be subject to the proposed regulation because their total GHG emissions are below the GHG reporting threshold, thereby exempting them from compliance obligations under the proposed regulation. However, small businesses may experience similar cost impacts as consumers. Cost impacts on consumers would result from changes in energy prices. Households and small businesses that consume less energy (directly by reducing their consumption of energy or indirectly by utilizing goods and services that are produced using less energy) will be less affected by higher prices than those that consume more energy. Incentive programs available to small businesses and consumers will provide access to funds for investing in energy efficient technologies, which includes low interest loans, rebates and credits. Energy savings from efficiency improvements are likely to partially offset or fully mitigate the impact of any increase in electricity prices and could mean decreased energy bills. Most California businesses will likely pass along the cost increases to consumers in the form of slightly higher prices for their products or services.

ARB staff has considered whether any proposed alternatives would lessen potential adverse economic impacts on businesses. The alternatives that staff has considered are described in more detail in the Initial Statement of Reasons.

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would affect small businesses.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the proposed regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Economic Impacts chapter of the Initial Statement of Reasons and in Appendix N – Supporting Documentation for the Economic Analysis.

SUBMITTAL OF COMMENTS

Interested members of the public may present comments orally or in writing at the meeting, and comments may also be submitted by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory item will begin on November 1, 2010. To be considered by the Board, written comments not physically

submitted at the meeting must be submitted on or after November 1, 2010, and received **no later than 12:00 noon, December 15, 2010**, and must be addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Government Code section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and other search engines.

The Board requests but does not require that 20 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted in sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601 of the Health and Safety Code. This regulatory action is proposed to implement, interpret, or make specific sections 38530, 38560.5, 38564, 38565, 38570 and 39600 of the Health and Safety Code.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990.

SPECIAL ACCOMMODATION REQUEST

Special accommodation or language needs can be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format (i.e., Braille, large print, etc.) or another language;
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing.

TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Comodidad especial o necesidad de otro idioma puede ser proveído para alguna de las siguientes:

- Un intérprete que esté disponible en la audiencia
- Documentos disponibles en un formato alternativo (por decir, sistema Braille, o en impresión grande) u otro idioma.
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

CALIFORNIA AIR RESOURCES BOARD

/s/

James N. Goldstene
Executive Officer

Date: October 19, 2010

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs see our Website at www.arb.ca.gov.