

The GOP sweep in the election of 2010 made it even more unlikely that a greenhouse gas (GHG) cap-and-trade program will be adopted on a national level. This means that the California Air Resources Board's likely enactment of a state program in December will be the proving ground for cap-and-trade. On October 28 the ARB staff released its proposal for the program. The complex proposal, including the 182 page regulation itself and several explanatory Appendices, totals over 3,000 pages.

In this Special Report we take a detailed look at the California proposal and at the reasoning behind the ARB staff's decisions on some of the key parts of the plan. Because of the length and complexity of what has been released, we caution that this is at best a summary.

Plan Authorization and Development

The cap-and-trade program is one of four core measures that the ARB will rely on to reduce greenhouse gas emissions statewide to 1990 levels by 2020; as specified in the state's 2006 landmark climate change law; the California Global Warming Solutions Act (AB 32). The other three core measures include the so-called Pavley greenhouse gas emission standards for autos and light-duty trucks (AB 1493), the Low-Carbon Fuel Standard, and the recently enacted regulations to require California electrical providers to obtain 33% of their power from renewable sources.

AB 32 itself does not specifically mention cap-and-trade. Instead it simply authorizes the ARB to utilize "market-based compliance mechanisms" in achieving the AB 32 targets. However, it was widely understood when AB 32 was adopted that cap-and-trade would be the most likely market-based measure to be included in the scoping plan.

The ARB's blueprint for achieving the 2020 target (the "scoping plan") contemplated that the cap-and-trade program will yield about 20% of the emission reductions necessary to meet that target. This amount is over and above reductions from sources covered by the program that will occur anyway due to the other measures included in the plan.

After the scoping plan was adopted by the ARB in December of 2008, the staff immediately began work on the cap-and-trade program. During 2009 and 2010 the staff held more than 30 workshops to discuss various issues associated with the development of the program. The staff also received input from a Market Advisory Committee set up specifically to advise on cap-and-trade issues, and from 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 of 2009 Cal/EPA Secretary Linda Adams and ARB Chair Mary Nichols jointly created another committee, the Economic and Allocation Advisory Committee (EAAC), which was charged on making recommendations on the extent to which emission allowances under the program should be auctioned or allocated without cost to existing sources.

In this final draft the staff has largely ignored the recommendations of two of those committees; the EJAC whose members in principle are opposed to cap-and-trade and the EAAC that recommended that emission allowances be almost entirely auctioned; even in the early years of the program (CEI December 18, 2009).

In November of last year the staff released a conceptual framework for the program called the Preliminary Draft Regulation (PDR) (CEI Novem-

ber 30, 2009). The PDR was designed primarily to get feedback from the public on the elements of the program. Because the EAAC report was not then complete, the PDR did not include any proposal on the auction v. free allocation issue.

A workshop on the PDR was held in December of last year, and since then the staff has been digesting the over 130 comments it received on it. The staff held some further workshops this year; primarily to discuss ideas on the extent to which program participants would be able to meet some of their obligations through the use of emission reduction credits (offsets) developed by parties outside of the program.

This final draft, including Appendices, is more than 3000 pages long. The main staff report for the proposal is 472 pages long.

The Cap and How It Works

The ARB staff's proposed cap-and-trade program establishes an overall cap on emissions from all covered sources. The cap declines over the period of the program leading to overall reductions by the year 2020 of from 18 to 27 million metric tons of CO₂ equivalent (MMTCO₂e). The initial cap as of January 1, 2012, when the program starts, will be 165.8 MMTCO₂e. This amount is intended to equal the then current total emissions from all sources subject to the program as of that date (i.e., electricity generators and importers, large industrial sources, and carbon dioxide suppliers). The cap declines on an annual basis to 159.7 MMTCO₂e by 2014. At the beginning of 2015 the cap is increased to 394.5 MMTCO₂e to reflect emissions from fuel combustion. Fuel distributors, who supply such fuels, are first brought under the program that year (see below). The cap then declines to 334.2 MMTCO₂e for the final compliance year of 2020.

The program does not establish caps for individual covered entities. Instead, each such entity must surrender “compliance instruments” representing either “allowances” or “offsets” equal to its actual emissions of covered greenhouse gases or those it is responsible for during each compliance period.

Who Must Comply Under the Program

The program is divided into three three year compliance periods; January 1, 2012 through December 31, 2014; January 1, 2015 through December 31, 2017; January 1, 2018 through December 31, 2020. During the first period the program will cover electricity providers, large industrial sources, and carbon dioxide suppliers. Beginning in 2015 the program will expand to cover those who deliver fuels in California. In each case an entity faces a compliance obligation, if its total emissions (either directly generated or those that it is responsible for) total more than 25,000 metric tons per year of carbon dioxide equivalent emissions (CO₂ equivalents). A greenhouse gas for the purposes of AB 32 includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and nitrogen trifluoride. Each of these gases other than CO₂ has been given a CO₂ equivalence factor and thus an individual entity's total covered emissions are calculated based on these factors.

Any entity whose emissions exceed the 25,000 MMTCO₂e threshold during any year of a compliance period has a compliance obligation for that period and the next compliance period, unless it has shut down all sources of its emissions.

The Electricity Sector (2012)

Compliance is required at the point of generation by those who generate electricity in-state and deliver it to the California grid. Compliance is also required by those who are the first in-state distributor of imported electricity to the California grid. Compliance obligations for this sector are based on emissions from

the generating facility, if the facility is known. In the case of in-state generators this is not an issue. For imported electricity (referred to as “unspecified power”) the electricity is bought and sold on the California grid and therefore the generator sources are not known. To deal with this the staff proposes to use a default emissions factor based on the average emissions associated with the available electricity generation that could be sold on the spot market and brought into California. This factor will then be multiplied by the amount of electricity sold by the first distributor.

Carbon Dioxide Suppliers (2012)

Those who supply carbon dioxide gas for industrial purposes will be covered to the extent they supply more than 25,000 tons of CO₂.

Large Industrial Sources (2012)

Large industrial sources (refineries, cement plants, chemical plants, etc.) will be covered if they emit more than the 25,000 MMTCO₂e ton threshold. This determination is based on individual facility reporting under the ARB's Mandatory Reporting Regulation (MRR), which covers facilities with 10,000 MMTCO₂e tons or more CO₂e emissions. If a facility fails to report (or its report is determined to be inaccurate), the ARB will assign the facility a compliance obligation.

Fuel Suppliers (2015)

Natural Gas. Suppliers of natural gas will be covered to the extent that their total deliveries in the state less those amounts covered by other covered entities (i.e., electricity generators or industrial facilities) exceed 25,000 MMTCO₂e.

Transportation Fuels. Transportation fuel suppliers will be covered for the total emissions from the fuel that they sell or distribute for consumption in California.

Liquefied Petroleum Gas. LPG producers, including fractioners and refiners, and LPG importers have a compliance obligation for emissions resulting from full combustion or oxidation of all fuel sold or distrib-

uted in California.

Special Compliance Categories.

Combined Heat and Power. Emissions associated with electricity generated from cogeneration facilities have a compliance obligation to the extent that the industrial facility's total emissions exceed 25,000 MMTCO₂e.

Biomass Derived Fuels. Combustion emissions from specified biomass-derived fuels are excluded from compliance obligations, if the biomass-derived fuel is reported and verified pursuant to the MRR. If the start-up fossil fuels that supplement biomass-derived fuel combustion at facilities and unverified biomass-derived fuels exceed the cap-and-trade threshold, the facility will be subject to compliance requirements to the extent of that excess.

Landfills and Wastewater Treatment Facilities. The program will exclude emissions from the combustion of biomass produced in solid waste management and wastewater treatment facilities if they can verify their biomass emissions through the MRR process. Emissions from fossil fuel combustion and unverified biomass-derived fuels will create a compliance obligation.

Waste-to-Energy Generation. Electricity delivered using biomass-derived fuels will have a compliance obligation for any biomass-derived fuel that is not verified through the MRR process. Emissions from fossil fuel combustion and unverified biomass-derived fuels will create a compliance obligation.

Opt-In Entities

An entity that falls within any of the covered categories but does not meet the threshold for inclusion can nevertheless “opt-in” for the program during any compliance period. These entities can receive free allowance allocations on the same terms as other participants. However, they also face all of the other obligations imposed on those entities who must comply with the regulation. The staff believes that some such entities may elect to

participate in order to be rewarded for their efficiencies.

Voluntarily Associated Entities

These are entities without a compliance obligation, but who wish to participate in auctions, any secondary market, and the tracking system. These entities may include non-governmental organizations or individuals wishing to purchase allowances for the purposes of retiring them. These entities also include traders, brokers, offset providers, or financial institutions.

Demonstrating Compliance

An entity with a compliance obligation complies by surrendering “compliance instruments” equal to the amount of greenhouse gas emissions for which the entity is responsible. There are two types of instruments; “allowances” and “offsets.” An allowance is issued by the Air Resources Board itself. Each allowance allows the emission of 1 metric ton of CO₂e greenhouse gases. Each year the ARB issues allowances equal to the total cap applicable for that year.

An offset represents a reduction or removal of GHG emissions from activities not covered by the cap-and-trade program. Offsets are issued by the ARB itself or by other programs that have been linked to the ARB program. Each offset instrument represents 1 metric ton of CO₂e greenhouse gases.

At the end of each year for the first two years of a compliance period, the complying entity surrenders compliance instruments equal to 30% of its emissions for that year. At the end of the full three year period, the entity submits instruments equal to the balance (the total 3 years worth of emissions less the amount covered during the first two payments). A failure to submit the adequate number of compliance instruments, when required, will be considered “excess emissions,” and the covered entity will then be required to surrender four allowances for each failure to submit an instrument.

The draft regulation limits the extent to which a covered party can surrender external offsets to meet its compliance obligation. That amount is specified by a complex formula that works out to a limit on offset use equaling no more than 8% of an entity’s compliance obligation during any reporting period. This is a doubling of the 4% limit that was included in the November 2009 preliminary draft regulation. The increased ability to use offsets combined with the distribution of free allowances at the beginning of the program have made business interests more accepting of the final program.

Distribution of Allowances

This was probably the most complex problem facing the staff in designing this program. The basic decision about whether to allocate allowances through an auction or through free distribution to covered entities has been answered with a blended approach that relies largely on free allocation during the first three years moving to an increasingly greater percentage of allowances auctioned as the program continues.

Allowance Budgets

The draft regulation establishes a “budget” for each year of the program equal to the amount of the declining cap at that point. From this budget it allocates allowances freely to some program participants or by auction to the highest bidder.

Allocation to the Industrial Sector

Free allocations are being made to the industrial sector for two purposes. One is to ease their transition to manufacturing processes that produce less carbon emissions. The other is to minimize the likelihood of “leakage” due to the shifting of production from California manufacturers to other states or countries due to the inability of the California facilities to pass the extra costs of complying with this program through to their customers.

The draft regulation assigned a likelihood of leakage to each industry

sector based on its “emissions intensity” (i.e., the relative emissions per unit of output for each sector) and its “trade exposure.” During the first compliance period (2012-2014) each industrial sector will get free allocations equal to about 90% of that sector’s total emissions. That allocation is made up of a combination of transition assistance and leakage. The transition assistance for each sector gradually declines during the nine years of the program, so by the last compliance period the only free allocations are those made to prevent leakage. By the last compliance period (2018-2020) slightly less than half of the various sectors will still be getting free allocations covering the original percentage of their share of the overall declining cap. The others will receive allocations at either 50% of the original allocation or 30%.

Within these individual sectors there is a further differential in allocations to individual facilities designed to reward those facilities that generate relatively less emissions than their peers. These allocations are based on “benchmarks” for each sector that take into account the amount of emissions per product produced and the amount of energy use per product. These individual allocations will change every year to reflect the facility’s prior year performance.

Allocation to the Electricity Industry

Instead of allocating allowances directly to those entities in the electrical sector with a compliance obligation (i.e. in-state generators and importers of out-of-state generation) the draft regulation will instead allocate the allowances to the retail electricity distributors; including Investor Owned Utilities (IOUs) and Publicly Owned Utilities (POUs). Both sets of utilities will be required to use their allowances for the benefit of their ratepayers.

The IOUs will be required to auction all of their allowances at the quarterly auction of allowances held by the ARB (see below). The

utilities must use the proceeds from their auction of allowances solely for the direct benefit of their ratepayers, either in the form of customer rebates, bill allowances, or to pay for GHG-reducing measures such as energy efficiency programs. An IOU will have to purchase allowances at auction to discharge the compliance obligation for any generating facility it directly owns in California. Independent generators who sell to IOUs will have a similar obligation. The staff believes that this will preserve the current competitiveness of the deregulated electricity market by giving utility-owned generators and independent generators equal access to allowances.

The staff assumes that the independent generators will pass the cost of their allowances through to purchasers of their power in the wholesale electricity market. The IOUs will absorb the allowance costs for their power generation and pass it through in their rates. In both cases the process will accomplish the staff's goal of ensuring that the price of retail electricity reflects a carbon cost.

POUs are treated somewhat differently. The theory is that most POUs own and operate their own generation and do not compete with independent generators. POUs may either auction their allowances or use them directly to meet their compliance obligations for their own generated power. If a POU auctions its allowances it must use the proceeds to benefit ratepayers in a similar manner as the IOUs.

The staff still has not settled on the method for allocating emissions among the individual IOUs and POUs. While all of the state's utilities are committed to generating electricity with the least amount of carbon emissions, they currently have very different GHG emissions profiles and emissions reduction opportunities. Some utilities, particularly in Southern California, have relied more on coal-generated power, and have long-term contractual commitments that predate the concern over GHGs. Northern California

utilities rely more on hydropower and natural gas and have fewer long-term contracts. The staff recognizes that to protect utility customers in Southern California and other customers of long-term, high carbon emission generated power, it must come up with some sort of allocation method that does not look solely at the utility's emissions profile. So far the staff has not come up with a method that achieves all of its goals. Its current plan is to look at comments on this issue received during the comment period on the draft regulation and to bring a more detailed proposal to the Board that would be then added to the regulation after a subsequent 15-day comment period.

Allocations to Natural Gas Suppliers

Beginning in 2015, natural gas distribution utilities will have a compliance obligation for natural gas delivered to consumers other than those directly covered by the program. The staff is considering a proposal by the gas utilities to allocate allowances to them based on the proportionate share of total capped emissions from residential and commercial natural gas use over a historical period. Under this proposal the allowances allocated to the sector would decline over time in proportion to overall cap decline. The utilities propose that they be allowed to use 90% of their allowances to reduce their compliance obligations with the remaining 10% to be auctioned. The proceeds from the auction would be used to fund customer energy efficiency and other greenhouse gas reduction programs.

The staff is considering this proposal, along with others, including requiring the utilities to auction all of their allowances (like the IOUs) and other approaches.

Allowance Price Containment Reserve

The staff will set aside an escalating percentage of the total allowances in a "price containment reserve." These will be available to covered entities

in the case of unexpectedly short supply or high prices. The amount deposited will be 1% of the total available allowances during each of the first three years, 4% during the succeeding three years, and 7% during the last three. The average deposit over the nine year period would be 4.6%.

The staff believes that this Reserve, when combined with the availability of offsets, will be sufficient to keep allowance price within a reasonable range.

Advance Auctioning

Auctioning allowances for future years during a current compliance period sends a price signal to the market about the expectation of future prices. This is valuable for entities that need to consider carbon prices in making future investment decisions, and can be used as a hedge against future compliance obligations.

The staff plans on advance auctioning 2% of the allowance budgets for the second and third compliance periods. Each such auction would occur three years before the compliance year in question. Thus allowances for 2015 would be auctioned in 2012.

Remainder of Allocations Auctioned

All of the allowances not discussed above will be auctioned by the ARB. The bulk of this auctioning will begin in the second compliance period when allowances representing fuel use will be allocated. The staff is not freely allocating these allowances to fuel distributors (with the possible exception of natural gas utilities as discussed above), because it believes that the distributors can pass the costs of compliance through to their customers.

Registration, Tracking, and Accounts

The ARB is working on a "market tracking system" (MTS) that will record information about the holders of compliance instruments and trades of them among market participants. The ARB expects this

system to be operational at the beginning of 2012.

Any entity that wishes to hold a compliance instrument must register with ARB. In doing so it must disclose affiliated entities and provide other information sufficient to assist the ARB in overseeing the market.

The ARB will establish three types of accounts within the MTS: Holding Accounts, Compliance Accounts, and Limited Use Holding Accounts. All entities holding compliance instruments must have a Holding Account. Covered and opt-in entities will meet their compliance obligation by transferring allowances and offsets from their holding accounts to their compliance accounts. Voluntarily Associated Entities, who have no compliance obligation, will only have a Holding Account.

Limited Use Holding Accounts will be set up for electricity utilities that receive free allowances. Holders of these accounts may only sell their allowances on a consignment basis through the quarterly auction (see below).

Auction of Allowances

The ARB will hold quarterly auctions at which the ARB itself or anyone else with allowances it wants to sell can put their allowances up for auction. The ARB may perform the auction itself or, more likely, hire a third party to do the job. The first such auction will be held in February of 2012. At each quarterly auction one-quarter of the total allowances for that year will be auctioned. In addition the limited amount of allowances for future years will also be auctioned.

Non-ARB entities wishing to sell allowances will “consign” them to the ARB. Allowances will be sold in 1,000 unit bundles. The bids will be sealed so that a participant does not know what other participants have bid.

After a single round of bidding, the auction operator will award the allowances to the successful bidders starting with the highest bidders

first until all allowances have been awarded. However, the auctioneer will not accept a bid below a “reserve” price set by the ARB. For 2012 that price is \$10 per metric ton. The reserve price will be increased by 5% in each succeeding year, plus an amount equal to the consumer price index. Allowances unsold at the end of the auction will be placed into the price containment reserve (“the Reserve”) described above or, in the case of utilities, returned to the utility.

All entities wishing to participate in an auction must register at least 30 days prior to it. Each entity must also provide a bid guarantee providing assurance to ARB that the purchaser has the ability to pay for any allowances awarded.

Bidders will be limited in the amount of allowances they can bid for at each auction. Each covered entity and opt-in entity may purchase a maximum of 10% of total allowances offered for each budget year. Voluntarily associated entities are limited to 4%.

Sales from the Reserve will take place three weeks after each quarterly auction. The allowances will be offered in three tiers at \$40, \$45, and \$50 per ton. Only covered entities can participate in this Reserve auction, and bidders will specify the amount of allowances they want in each tier. The Reserve administrator will award allowances from each tier until the tier is empty. If too many bids are submitted, the Reserve administrator will prorate the available allowances among bidders.

Trading and Banking

Trades and sales of allowances can take place at the ARB auctions or separately in the secondary market. These trades collectively establish the market price for the allowances. Trades must be between registered parties from one party's Holding Account to the other's. A trade does not become effective until the trade is reported to the accounts administrator using the number of the

compliance instrument. The draft regulation limits the amount of compliance instruments that any one registered party can hold in its Holding Account at any one time to eliminate market hoarding.

Compliance instruments do not expire. Thus allowances issued for a future year can be banked for future use. Allowances issued for a future year cannot be used for surrender in an earlier compliance period except for allowances purchased from the Reserve, which can be used immediately.

Linkage

The draft regulation contemplates that California will link its trading program with those of other “national and sub-national” governments. However, the draft does not establish any such links at this time. Each link to a particular jurisdiction's trading program will have to be separately approved by the ARB after the staff has vetted the system to ensure that it has the type of monitoring, enforcement mechanisms, and other safeguards to ensure the validity of the system's allowances.

The only potential links mentioned are to programs established by the other members of the Western Climate Initiative (WCI).. Four WCI jurisdictions—New Mexico, British Columbia, Ontario, and Quebec—have been working on implementing their programs by this coming January. The ARB staff has been working with these jurisdictions and believes that the final versions will be acceptable for linkage. On November 2, after the ARB's proposed draft, the New Mexico Environmental Improvement Board approved a final version of that state's cap-and-trade regulations.

Recognition of Offsets

As indicated above covered parties can use external offsets to satisfy up to 8% of their compliance obligation during any period. The offsets recognition proposal is designed to provide greater flexibility to covered entities and to put downward pressure on the market price of al-

lowances. Offsets may be generated for use in the program in two ways: (1) they may be issued by the ARB using ARB-recognized protocols and (2) they may be recognized by the ARB from ARB-approved offset programs. The draft regulation contains language aimed at ensuring that all such offsets represent “real, quantifiable, verifiable, enforceable, and additional” GHG emission reductions, as specifically required by AB 32. The draft regulation also includes provisions establishing requirements for third-party verifiers of offsets, offset project developers, and offset credit users.

The ARB itself must approve the protocols that it will use to recognize the offsets that it approves. The draft regulation establishes the procedures for such recognition, and incorporates by reference four such protocols to begin the program: (1) the U.S. Forests Protocol, (2) the Livestock Manure Digester Projects Protocol, (3) the Urban Forests Projects Protocol, and (4) the Ozone Depleting Substances Projects Protocol. Each of these protocols includes provisions for generating offsets and so long as those conditions are met the ARB will recognize the offset. Each of the four protocols was developed by the Climate Action Registry (CCR) or its predecessor, the California Climate Action Registry (CCAR) since the latter’s establishment in 2005.

The draft regulation requires that project developers “list” their projects by submitting information to the ARB as the projects are being developed. This will ensure transparency in the development of the project. The requirements for listing are established in each of the incorporated protocols.

The draft regulation establishes a Forest Buffer Account—a permanent mechanism for ensuring that GHG emissions remain out of the atmosphere—to replace offset credits issued under the U.S. Forest Projects Protocol in the event of an unintentional reversal. The Account is funded by a portion of the offset

credits issued to a project under the Protocol.

The staff is working with what it describes as “qualified third-party offset programs” to recognize offset credits from new offset projects developed by these programs. The draft regulation includes provisions for approving such third-party programs.

The draft regulation contains provisions to ensure the continued enforceability of compliance offsets. The ARB may need to invalidate offset credits after they have been issued for two primary reasons: (1) fraud or malfeasance on the part of the project developer, the third-party verifier, verification body, or others involved in the completion of the project, or (2) a reversal in the forest sector.

The draft regulation includes a process for accepting offset credits from qualified existing offset projects into the program to help create an initial supply of offset credits for the program. These include offsets developed pursuant to the four protocols developed by the CAR and CCAR that have been incorporated into the regulation.

Finally, the draft regulation establishes a framework for accepting sector-based offset credits from developing countries. Although no such offset programs are being recognized at this time, the staff is hopeful that the existence of the framework will encourage developing countries to limit their GHG emissions. The most likely beneficiaries of this provision are developing countries seeking to create offsets under the REDD program (Reducing Emissions from Deforestation and Forest Degradation).

Enforcement and Penalties

AB 32 has its own penalty provision that provides that any violation of the statute or the ARB regulations implementing it is considered an “emissions” violation and thus subject to the statutes covering such violations [Health and Safety Code section 42400 et. seq.]. These statutes subject a violator to penalties up to

\$40,000 for each intentional violation. The draft regulation defines as a separate violation each failure to surrender a compliance instrument for each day the surrender continues.

The draft regulation recognizes that some of the participants in the program may be out-of-state entities. The staff believes that by requiring them to register under the program, they can be brought under California jurisdiction. The draft also includes provisions allowing the ARB to limit the ability of a registered entity to fully participate in the market as a response to violations, and to revoke the registration of non-covered entities.

Other AB 32 Requirements

The drafters of AB 32 placed a number of requirements both on the adoption of AB 32 overall, and on the adoption of market mechanisms like cap-and-trade in particular. The staff report describes how the staff has designed the program to meet these various requirements, including ensuring its cost-effectiveness, minimizing leakage, minimizing the administrative burden for those complying with the program, and ensuring that the greenhouse gas reductions are actually achieved; particularly in the case of offsets. In response to the requirement that the program recognize past emission reduction efforts by covered entities, the staff cites its use of efficiency benchmarks for the industrial sector.

The staff also responds to the concerns by the environmental justice community that a cap-and-trade program might have unacceptable local impacts. It believes that the impacts overall will be positive in local communities due to the reduction of conventional and toxic pollutants as a consequence of actions to reduce greenhouse gas pollutants (the “co-pollutant” affect). The staff admits that due to the complexity of the program there might be a few isolated instances where GHG emissions increase or that toxic and conventional pollutants fail to

decrease by 2020 as much as would otherwise occur. However, the staff believes that this is a highly unlikely possibility.

Monitoring

The staff vows to carefully monitor the progress of the program to ensure that it is achieving its goals and to take actions to fix the program should it not be doing so.

Hearing, Comments, and Documents

The hearing by the Board to consider adoption of the proposed cap-and-trade program will take place at the Board's December 16 meeting at Cal/EPA Headquarters in Sacramento. This is a two-day meeting and it is possible that the Board may defer action on the proposal until the second day.

The draft regulation, the accompanying staff report (ISOR), and the numerous appendices further explaining parts of the program can be found at: www.arb.ca.gov/regact/2010/capandtrade10/capandtrade10.htm.

Conclusion

This is a highly complex undertaking and it may be some time before judgment can be passed on how well it has worked. One thing is certain, however; the eyes of the rest of the country and even the rest of the World will be on California as it carries out this ambitious program.