State of California
AIR RESOURCES BOARD

California Cap-and-Trade Program

Resolution 12-28

June 28, 2012

Agenda Item No.: 12-4-5

WHEREAS, in section 38564 of the Health and Safety Code, the Legislature directs the Air Resources Board (ARB) to consult with other states and the federal government and other nations to identify the most effective strategies and methods to reduce greenhouse gases, manage greenhouse gas control programs and to facilitate the development of integrated and cost-effective regional, national and international greenhouse gas reductions programs;

WHEREAS, ARB has worked closely with the Province of Quebec and other Western Climate Initiative partner jurisdictions over the last five years and with extensive opportunities for stakeholder input to develop cap-and-trade programs that are equivalent to or stricter than those required by Division 25.5 (commencing with section 38500) of the Health and Safety code, and that can be linked to form a joint market;

WHEREAS, on June 27, 2012, the Legislature passed SB 1018 which directs state agencies not to link a market-based compliance mechanism established pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code and specified in Sections 95801 to 96022, inclusive of Title 17 of the California Code of Regulations with any other state, province or country, unless the state agency notifies the Governor that the agency intends to link and the Governor, acting in his independent capacity, makes all of the following findings:

- The jurisdiction with which the state agency proposes to link has adopted program requirements for greenhouse gas reductions, including, but not limited to, requirements for offsets, that are equivalent to or stricter than those required by Division 25.5 (commencing with Section 38500) of the Health and Safety Code;

- Under the proposed linkage, the State of California is able to enforce Division 25.5 (commencing with Section 38500) of the Health and Safety Code and related statutes, against any entity subject to regulation under those statutes, and against any entity located within the linking jurisdiction to the maximum extent permitted under the United States and California Constitutions;

- The proposed linkage provides for enforcement of applicable laws by the state agency or by the linking jurisdiction of program requirements that are equivalent to or stricter than those required by Division 25.5 (commencing with Section 38500) of the Health and Safety Code; and

- The proposed linkage and any related participation of the State of California in Western Climate Initiative, Incorporated, shall not impose any significant liability on the state or any state agency for any failure associated with the linkage.

NOW, THEREFORE BE IT RESOLVED that the Board directs the Executive Officer to formally request that the Governor make findings regarding Quebec's climate change program and cap-and-trade regulations as required by SB 1018, and to provide those findings to the Legislature.

I hereby certify that the above is a true and correct copy of Resolution 12-28, as adopted by the Air Resources Board.

Mary Alice Morency, Clerk of the Board