

State of California
AIR RESOURCES BOARD

**FUNDING GUIDELINES FOR AGENCIES THAT ADMINISTER
CALIFORNIA CLIMATE INVESTMENTS
(CAP-AND-TRADE AUCTION PROCEEDS)**

Resolution 18-27

July 26, 2018

Agenda Item No.: 18-6-3

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the California Air Resources Board (CARB or Board) to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, the Legislature enacted the California Global Warming Solutions Act of 2006, or Assembly Bill (AB) 32 (Nuñez, Statutes of 2006, Chapter 488; Health and Safety Code Division 25.5, section 38500 et seq.), which declares that global warming poses a serious threat to the economic well-being, public health, natural resources, and environment of California;

WHEREAS, AB 32 directs CARB to create a comprehensive multi-year program to reduce California's greenhouse gas (GHG) emissions to no greater than 1990 levels by 2020, and to maintain and continue reductions in emissions of GHGs beyond 2020;

WHEREAS, the Legislature enacted Senate Bill (SB) 32 (Pavley, Statutes of 2016, Chapter 249; Health and Safety Code section 38566), which further directs CARB to ensure that statewide GHG emissions are reduced to at least 40 percent below 1990 levels by 2030;

WHEREAS, Health and Safety Code sections 38561(a) and (h) direct the Board to prepare and approve a Scoping Plan for achieving the maximum technologically feasible and cost-effective GHG emission reductions and update the Scoping Plan at least once every five years;

WHEREAS, Health and Safety Code section 38561(b) requires CARB, in developing the Scoping Plan, to identify and make recommendations on direct emission reduction measures, alternative compliance mechanisms, market-based compliance mechanisms, and potential monetary and nonmonetary incentives for sources and categories of sources that the Board finds necessary or desirable to facilitate the achievement of the maximum feasible and cost-effective reductions of GHG emissions;

WHEREAS, pursuant to the regulatory purposes of Division 25.5 (commencing with section 38500) of the Health and Safety Code, the Board, in Resolution 17-46, adopted the Scoping Plan, that frames the suite of policy measures, regulations, planning efforts, and investments in clean technology needed to continue driving down emission and ensure that the State stays on course to meet its long-term reduction objectives;

WHEREAS, pursuant to the regulatory purposes of Division 25.5 (commencing with section 38500) of the Health and Safety Code, the Board, in Resolution 11-32, adopted regulations, specified in sections 95800 to 96022, inclusive, of Title 17 of the California Code of Regulations, that establish a market-based compliance mechanism, and those regulations were later amended and implemented;

WHEREAS, SB 1018 (Senate Committee on Budget and Fiscal Review, Statutes of 2012, Chapter 39; Government Code section 16428.8) created the Greenhouse Gas Reduction Fund as a special fund in the State Treasury to receive all moneys, except for fines and penalties, collected by CARB from the auction or sale of allowances, pursuant to 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 95800 to 96022, inclusive, of Title 17 of the California Code of Regulations;

WHEREAS, AB 1532 (Pérez, Statutes of 2012, Chapter 807; Health and Safety Code section 39712(b)) provides that moneys from the Greenhouse Gas Reduction Fund shall be used to facilitate the achievement of GHG emission reductions and, where applicable and to the extent feasible:

- Maximize economic, environmental, and public health benefits to the State;
- Foster job creation by promoting in-State GHG emissions reduction projects carried out by California workers and businesses;
- Complement efforts to improve air quality;
- Direct investment toward the most disadvantaged communities and households in the State;
- Provide opportunities for businesses, public agencies, nonprofits, and other community institutions to participate in and benefit from statewide efforts to reduce GHG emissions; and
- Lessen the impacts and effects of climate change on the State's communities, economy, and environment;

WHEREAS, the programs and projects being funded by the Greenhouse Gas Reduction Fund are referred to as "California Climate Investments";

WHEREAS, AB 1532, in Health and Safety Code section 39716, requires the Department of Finance, on behalf of the Governor, and in consultation with CARB and any other relevant State entity, to develop and submit to the Legislature a three-year investment plan (Investment Plan), consistent with the requirements of Health and Safety Code section 39712, that identifies near-term and long-term GHG emission reduction goals and targets by sector; analyzes gaps in current State strategies for meeting GHG reduction goals by sector; and identifies priority investments that facilitate GHG reductions;

WHEREAS, SB 535 (De León, Statutes of 2012, Chapter 830; Health and Safety Code section 39711) requires the California Environmental Protection Agency (CalEPA) to identify disadvantaged communities for investment opportunities funded by the Greenhouse Gas Reduction Fund (pursuant to Health and Safety Code section 39711) and requires that the Investment Plan allocate the available moneys in the Greenhouse Gas Reduction Fund according to Health and Safety Code section 39713:

WHEREAS, Government Code 16428.9(a) requires State agencies that have been appropriated moneys from the Greenhouse Gas Reduction Fund to prepare an expenditure record, prior to expending any moneys, that describes: the proposed investments, the ways in which the proposed investments further the regulatory purposes of Division 25.5 (commencing with Section 38500) of the Health and Safety Code (added by AB 32), the GHG emission reductions, the non-GHG benefits of the proposed investment of funds; and how the State agency will document the result achieved;

WHEREAS, Government Code 16428.9(b) requires CARB to develop guidance on reporting and quantification methods for all State agencies that receive appropriations from the Greenhouse Gas Reduction Fund;

WHEREAS, in 2015, CARB staff, in consultation with administering agencies, began releasing reporting requirements and quantification methodologies for administering agencies to document GHG emission reductions and non-GHG benefits and other results achieved;

WHEREAS, Health and Safety Code section 39715(a) requires CARB, in consultation with CalEPA, to develop funding guidelines for administering agencies that receive appropriations from the Greenhouse Gas Reduction Fund to ensure the requirements of Chapter 4.1 of Division 26, Part 2, of the Health and Safety Code are met (Funding Guidelines), including a component for how administering agencies should maximize benefits for disadvantaged communities;

WHEREAS, Health and Safety Code section 39715(b) requires that CARB provide an opportunity for public input prior to finalizing the Funding Guidelines;

WHEREAS, on September 24, 2015, the Board issued Resolution 15-37 finding that the Funding Guidelines were developed in accordance with the requirements set forth in Health and Safety Code sections 39711, 39712, 39713, 39715, and 39716;

WHEREAS, AB 1550 (Gomez, Statutes of 2016, Chapter 369) amended Health and Safety Code section 39713 to require that the Investment Plan allocate the available moneys in the Greenhouse Gas Reduction Fund according to the following minimum percentages:

- 25 percent to projects located within, and benefiting individuals living in, disadvantaged communities (identified pursuant to Health and Safety Code section 39711);

- 5 percent to projects that benefit low-income households anywhere in the state or to projects located within, and benefiting individuals living in, low-income communities located anywhere in the State; and
- 5 percent to projects that benefit low-income households that are outside of but within ½-mile of disadvantaged communities (identified pursuant to Health and Safety Code section 39711) or to projects located within, and benefiting individuals living in, low-income communities that are outside of but within ½-mile of disadvantaged communities (identified pursuant to Health and Safety Code section 39711);

WHEREAS, in January 2017, CalEPA and the Office of Environmental Health Hazard Assessment (OEHHA) updated the California Communities Environmental Health Screening Tool (CalEnviroScreen), and in April 2017 CalEPA updated the identification of disadvantaged communities for California Climate Investments;

WHEREAS, CARB staff determined that substantial amendments to the 2015 Funding Guidelines were needed to incorporate several changes in response to legislative changes, such as the AB 1550 requirements, and guidance for newly established programs;

WHEREAS, on August 4, 2017, CARB staff released a document for public review and comment entitled "2017 Draft Funding Guidelines for Agencies that Administer California Climate Investments" to add guidance for implementing these changes;

WHEREAS, AB 1613 (Assembly Committee on Budget, Statutes of 2016, Chapter 370), AB 109 (Ting, Statutes of 2017, Chapter 249), AB 134 (Assembly Committee on Budget, Statutes of 2017, Chapter 254), SB 856 (Senate Committee on Budget and Fiscal Review, Statutes of 2018, Chapter 30) appropriated moneys from the Greenhouse Gas Reduction Fund to a suite of new California Climate Investment programs not included in the Funding Guidelines;

WHEREAS, AB 398 (E. Garcia, Statutes of 2017, Chapter 135) clarifies the role of the Cap-and-Trade Program from January 1, 2021, through December 31, 2030, and expresses the intent of the Legislature that Greenhouse Gas Reduction Fund moneys be appropriated to include, but need not be limited to, the following priorities:

- (1) Air toxic and criteria air pollutants from stationary and mobile sources.
- (2) Low- and zero-carbon transportation alternatives.
- (3) Sustainable agricultural practices that promote the transitions to clean technology, water efficiency, and improved air quality.
- (4) Healthy forests and urban greening.
- (5) Short-lived climate pollutants.
- (6) Climate adaptation and resiliency.
- (7) Climate and clean energy research;

WHEREAS, in 2017 and 2018, CARB staff participated in 13 public events in 8 cities across the State attended by over 500 people, received 51 comment letters, and held dozens of meetings with community representatives and advocates, to get their input prior to the July 2018 Board hearing on updates to the Funding Guidelines;

WHEREAS, on February 2, 2018, CARB staff released a document entitled “2018 Funding Guidelines Discussion Document for Agencies that Administer California Climate Investments” (2018 Funding Guidelines Discussion Document) to describe and seek public input on anticipated additional revisions to the Funding Guidelines;

WHEREAS, on April 17, 2018, CARB staff released a document for public review and comment entitled “Draft Revised 2018 Funding Guidelines for Agencies that Administer California Climate Investments” (Draft Revised 2018 Funding Guidelines) that reflected the changes described in the 2018 Funding Guidelines Discussion Document;

WHEREAS, on July 2, 2018, CARB staff released the “Proposed 2018 Funding Guidelines for Agencies that Administer California Climate Investments” (Proposed 2018 Funding Guidelines) for consideration by the Board;

WHEREAS, CARB’s regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary for Natural Resources under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA; California Code of Regulations, title 14, section 15251(d)), and CARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60007);

WHEREAS, staff has determined that the proposed Funding Guidelines are exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) (“common sense” exemption) because the record evidence shows with certainty that there is no possibility that the proposed activity may result in a significant adverse impact on the environment; and that the proposed Funding Guidelines are not a “project” subject to CEQA because they constitute the creation of government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment;

WHEREAS, the Board finds that:

1. The Proposed 2018 Funding Guidelines update existing guidance to agencies administering California Climate Investments on approaches to focus programs on and prioritize projects that: facilitate GHG emission reductions, maximize economic, environmental, and public health benefits, foster job creation, maximize benefits to disadvantaged communities, benefit low-income households and low-income communities, avoid substantial burdens to disadvantaged and low-income communities, and further the purposes of Division 25.5 (commencing with section 38500) of the Health and Safety Code;
2. The Proposed 2018 Funding Guidelines provide updated guidance to support the evolving suite of California Climate Investments established in AB 1613, AB 109, AB 134, and SB 856, and the funding priorities identified in AB 1532 and AB 398;
3. The Proposed 2018 Funding Guidelines contain updates to existing guidance that:

- a) Require agencies to demonstrate how program or project expenditures facilitate GHG emission reductions;
 - b) Establish a new guiding principle that requires agencies, in designing programs and selecting projects, to avoid potential substantial burdens to disadvantaged and low-income communities;
 - c) Update procedures for agencies completing the Greenhouse Gas Reduction Fund expenditure record required by Government Code 16428.9(a);
 - d) Provide further direction to agencies on outreach and technical assistance to improve the ability of eligible applicants from disadvantaged communities to access these moneys;
 - e) Incorporate updated CalEPA designations for disadvantaged communities and include information on the identification of low-income communities and low-income households consistent with Health and Safety Code sections 39713 and 39715;
 - f) Update the evaluation approach for use by agencies to determine whether a project is eligible to be counted toward achievement of the overall funding targets established by Health and Safety Code sections 39713 and 39715;
 - g) Provide recommendations on targeting investments to benefit disadvantaged communities, low-income communities, and low-income households;
 - h) Identify a process for agency and public involvement in development of CARB guidance specific to each project type; and
 - i) Expand assessment, tracking, and reporting requirements to include estimates of employment benefits and outcomes;
4. CARB staff consulted with CalEPA and the administering agencies in developing the Proposed 2018 Funding Guidelines;
 5. CARB developed the Proposed 2018 Funding Guidelines in an open public process which provided numerous opportunities for public input, including workshops, community meetings, meetings with community advocates and other stakeholders, and written public comments;
 6. The Proposed 2018 Funding Guidelines were developed in accordance with the statutory requirements set forth in Government Code section 16428.9 and Health and Safety Code sections 39711, 39712, 39713, 39715, and 39716;
 7. The proposed Funding Guidelines are exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) because substantial evidence in the record shows with certainty that there is no possibility that the proposal may result in a significant adverse impact on the environment; and that the proposed Funding Guidelines are not a "project" subject to CEQA because they constitute the creation of government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; and

8. The proposal is consistent with CARB's environmental justice policies and do not disproportionately impact people of any race, culture, or income.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the Proposed 2018 Funding Guidelines as set forth in Attachment A.

BE IT FURTHER RESOLVED that the Board directs the staff to continue developing reporting requirements and quantification methodologies consistent with Health and Safety Code section 39715 and Government Code section 16428.9, for GHG reductions and non-GHG benefits from projects receiving Greenhouse Gas Reduction Fund moneys, and make those methodologies publicly available as described in the Proposed 2018 Funding Guidelines.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer or his or her designee to finalize the 2018 Funding Guidelines to reflect the staff's proposal and any revisions directed by the Board.

BE IT FURTHER RESOLVED that the Board directs the staff to continue the dialogue with administering agencies, disadvantaged communities, low-income communities, prospective project applicants, and other stakeholders during implementation of the 2018 Funding Guidelines.

BE IT FURTHER RESOLVED that the Board continues to delegate to the Executive Officer or his or her designee the authority and responsibility to make future updates to the Funding Guidelines or to develop additional guidance that is needed to address Greenhouse Gas Reduction Fund appropriations made pursuant to the Budget Acts, any other legislation regarding the Greenhouse Gas Reduction Fund, any CalEPA updates to the identification of disadvantaged communities, and any updates to the information used to define low-income communities and low-income households.

BE IT FURTHER RESOLVED that the Board directs the staff to periodically evaluate the need to consider any substantial amendments to the 2018 Funding Guidelines, exclusive of the changes described above, and return to the Board with any recommendations after providing an opportunity for public input and comment.

I hereby certify that the above is a true and correct copy of Resolution 18-27 as adopted by the Air Resources Board.

Rana McReynolds, Clerk of the Board

Resolution 18-27

July 26, 2018

Identification of Attachments to the Board Resolution

Attachment A*: Proposed 2018 Funding Guidelines, released July 2, 2018.

***Attachment A is NOT attached to the proposed resolution; it is simply described on this page.**