



Air Resources Board



Matthew Rodriguez
Secretary for
Environmental Protection

Mary D. Nichols, Chair
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Sacramento, California 95812 • www.arb.ca.gov

Edmund G. Brown Jr.
Governor

January 30, 2017

The Honorable Edmund G. Brown Jr.
Office of the Governor
State Capitol, First Floor
Sacramento, CA 95814

Dear Governor Brown:

Pursuant to Government Code section 12894, subdivision (f), this letter provides notice that the California Air Resources Board (ARB) is proposing to link its greenhouse gas emissions trading program (Cap-and-Trade Program) with the Cap-and-Trade Program developed by the Province of Ontario and requests that you consider and make the findings necessary to support the linkage.

Climate change is a global problem that requires innovative local, state, regional, national, and international solutions. In the Global Warming Solutions Act of 2006, the Legislature directed ARB to facilitate the development of integrated regional, national, and international greenhouse gas reduction programs. In 2013, California linked its Cap-and-Trade Program with the Province of Québec. Before linkage, you made the following findings as required by Senate Bill (SB) 1018 in Government Code section 12894, subdivision (f):

- (1) 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.
- (2) 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.
- (3) 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

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: <http://www.arb.ca.gov>.

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or stricter than those required by Division 25.5 (commencing with Section 38500) of the Health and Safety Code.

- (4) 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.

Linking California and Ontario's programs will further enhance the ability of our jurisdictions to effectively work together to develop and implement cost-effective regional greenhouse gas emission reduction programs. In addition, linking with Ontario's program will demonstrate that the existing California-Québec linkage framework is open for additional partners to join, and provides a workable template for urgently needed action. It is important and timely to demonstrate that linked programs offer a path forward that can include additional states and provinces.

There are also other benefits that California is expected to realize from linking. Linking with Québec, and now Ontario—and in time other partners—is another important step to transform California's economy by driving innovation and investment. Due to the State's leadership on clean energy and energy efficiency, California businesses are positioned to benefit as other jurisdictions require the technology and expertise to develop and implement their respective climate programs.

I am pleased to report that the California and Ontario regulations include many identical features to ensure the efficacy of the emissions cap and to facilitate fair and equitable access to an efficient market for compliance instruments. ARB and Ontario staff conducted extensive comparisons of the respective regulations and supporting programs to harmonize them in every respect needed to ensure the environmental integrity and compatibility of the programs. Therefore, the programs will be fully harmonized based on the regulatory amendments adopted by ARB, the regulations in force in Québec, and the legislation and regulations in force in May 2016 in Ontario.

Our analysis of the two programs in terms of the four required findings is set forth in the "Discussion of Findings Required by Government Code section 12894," included as an enclosure to this letter. The discussion document will become part of the administrative record for ARB's amendments to the Cap-and-Trade Program and will be made available at the following web sites:

<https://www.arb.ca.gov/regact/2016/capandtrade16/capandtrade16.htm>. (ARB's Cap-and-Trade Program rulemaking activity web site.)

<https://www.arb.ca.gov/cc/capandtrade/linkage/linkage.htm>. (ARB's Cap-and-Trade Program linkage web site.)

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Based on our analysis, we believe the linkage proposal satisfies the four findings enumerated in Section 12894. In short, Ontario's program is equivalent to California's. If linked, both programs will remain fully enforceable. Finally, linking the programs will not impose liability on California as contemplated by subdivision (f)(4) of Section 12894.

Also attached is the existing linkage agreement between California and Québec.¹ This document defines how California and Québec currently work together to ensure our programs remain harmonized and are properly integrated. Following Board action on the Cap-and-Trade linkage amendments described below, including any direction from the Board regarding the linkage agreement, ARB proposes to finalize the agreement with Ontario. California, Québec, and Ontario will be proposing an expanded linkage agreement to also include Ontario.

ARB is currently engaged in a rulemaking that would amend the Cap-and-Trade Regulation to include linkage with Ontario. SB 1018 affords the Governor 45 days following a request by ARB to make the findings and provide them to the Legislature, and also indicates that the Governor shall rely on advice from the Attorney General within that 45-day time period. ARB's request and the Governor's response, including supporting materials such as an advice letter from the Attorney General's Office, will be included in a formal 15-day comment period to become part of the administrative record for the linkage amendments. The Board is scheduled to consider the linkage amendments at its late April 2017 hearing. Provided your findings affirm our assessment and the Board approves the linkage amendments, the regulatory amendments to link with Ontario will be effective as of January 1, 2018. We, along with Ontario, are committed to ensuring that all of the necessary systems have been tested and are ready prior to holding any joint auction.

We request that you complete your assessment and issue findings. If you have any questions, please contact me at (916) 322-5840 or mnichols@arb.ca.gov, or ARB's Executive Officer, Mr. Richard W. Corey at (916) 322-7077 or Richard.Corey@arb.ca.gov.

Sincerely,



Mary D. Nichols
Chair

Enclosures

¹ https://www.arb.ca.gov/cc/capandtrade/linkage/ca_quebec_linking_agreement_english.pdf

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cc: Honorable Board Members

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