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June 27, 2012

Via E-Mail

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

Re: Amendments to the California Cap on Greenhouse Gas Emissions and Market-based Compliance Mechanisms to Allow for the Use of Compliance Instruments Issued by Linked Jurisdictions

Dear Air Resources Board:

On behalf of the Association of Home Appliance Manufacturers (AHAM), I would like to provide our comments on the amendments to the California Cap on Greenhouse Gas Emissions and Market-based Compliance Mechanisms to Allow for the Use of Compliance Instruments Issued by Linked Jurisdictions. AHAM is concerned that the effect of recent actions in Quebec which raise fundamental policy issues, must be considered before finalizing the California program.

AHAM represents manufacturers of major, portable and floor care home appliances, and suppliers to the industry. AHAM's membership includes over 150 companies throughout the world. In the U.S., AHAM members employ tens of thousands of people and produce more than 95% of the household appliances shipped for sale. The factory shipment value of these products is more than \$30 billion annually. The home appliance industry, through its products and innovation, is essential to U.S. consumer lifestyle, health, safety and convenience. Through its technology, employees and productivity, the industry contributes significantly to U.S. jobs and economic security. Home appliances also are a success story in terms of energy efficiency and environmental protection. New appliances often represent the most effective choice a consumer can make to reduce home energy use and costs.

California's existing cap-and-trade regulation is designed to reduce greenhouse gas (GHG) emissions by applying a declining aggregate cap on GHG emissions, and creates a flexible compliance system through the use of tradable instruments (allowances and offset credits). The appliance industry supports a market-based approach with economic incentives to encourage environmental protection. The current market-based compliance mechanisms outlined in the regulation to allow for compliance instruments such as offset credits, if designed and implemented properly, may provide a decrease in GHG emissions. However, there are several areas of inconsistency between the California and Quebec regulations that need clarification and

modification to ensure the trading of compliance instruments is not inhibited or even prohibited. Quebec province appears to be headed in the wrong direction by its possible approach in the regulation of ozone depleting substances (ODS) in its Climate Action Plan which would undermine the cap and trade program. California must ensure any jurisdictions that are linked to the cap and trade program, including Quebec province, do not limit trading markets for all compliance instruments including carbon offset credits.

I. Subarticle 2: Purpose

The California Air Resources Board has proposed amendments to its cap-and-trade regulation to allow for the use of compliance instruments issued by linked jurisdictions to facilitate a market based system. The Air Resources Board has evaluated the Quebec cap-and trade regulation and proposes to allow for the interchange of compliance instruments between the California and Québec programs. However, recently Quebec released its Climate Action Plan in June 2012, which could lead to the regulation of ozone depleting substances including refrigerants and foam blowing agents in a manner which would prevent any offset credits from being issued or traded in Quebec province despite meeting the requirements in California as outlined in the “Compliance Offset Protocol Ozone Depleting Substances Projects” adopted by the Air Resources Board.

Offset projects located in the US, its territories, Canada, and Mexico that otherwise meet the requirements of the California regulation and the California ODS protocol could not be used in California and its linked jurisdictions to meet compliance obligations because of failure to meet the definition of additionality as defined in the California regulation:

“Additionality means in the context of offset credits, greenhouse gas emission reductions or removals that exceed any greenhouse gas reduction or removals otherwise required by law, regulation or legally binding mandate, and that exceed any greenhouse gas reductions or removals that would otherwise occur in a conservative business-as-usual scenario.”

If Quebec mandates refrigerator foam recovery or refrigerant recovery beyond present regulations then projects located in Quebec and elsewhere would not have qualifying additionality.

Therefore, regarding linkage with Quebec province or any trading partner, AHAM requests the regulation be modified with the following sentence in Subarticle 2: Purpose and Definitions:

The purpose of this article is to reduce emissions of greenhouse gases associated with entities identified in this article through the establishment, administration, and enforcement of the California Greenhouse Gas Cap-and-Trade Program by applying an aggregate greenhouse gas allowance budget on covered entities and providing a trading mechanism for compliance instruments. **In order to comply with the purpose of this article, any jurisdictions linked to the California Cap and Trade program must provide for the trading of compliance**

instruments, including offsets, as outlined in the protocols approved and adopted by the Air Resources Board accompanying this regulation.

II. Definitions

Prior to linking with any jurisdiction, including Quebec province, California must ensure that all definitions in the corresponding cap and trade regulations and offset protocols are harmonized. For example, although several entities may be involved in the implementation of a carbon offset project for ozone depleting substances, it is the entity that has taken the legal responsibility for end-of-life management that must be given ownership of the carbon offset credits. The California regulation defines an “offset project operator” as the entity with legal authority to implement an offset project. However, it appears the Quebec cap and trade regulation does not utilize the same definition. Therefore, further clarification of “legal authority” is needed in the regulation and AHAM requests the definition for “offset project operator” be changed as follows:

Offset Project Operator means the entity with the legal authority to implement an offset project. **For the purposes of this definition, legal authority is defined as the entity that has taken legal responsibility for end of life management regarding ozone depleting substances or GHG emissions.**

III. 95972 Requirements for Compliance Offset Protocols

In order to allow for the interchange of compliance instruments, including offset credits, between California and any linked jurisdiction; offset projects that meet the requirements of the offset protocols approved and adopted by the Air Resources Board must not be excluded if the offset project is within the boundaries of the United States or its territories, Canada or Mexico and implemented by an Offset Project Operator.

Compliance Offset Protocols from linked jurisdictions to the California cap and trade program can not prohibit Offset Project Operators meeting the requirements of the California regulation from being the entity with the legal authority to implement an offset project, being the sole owner, or owning GHG emission reduction credits from an offset project in the linked jurisdiction. It appears the Quebec cap and trade regulation would require the carbon offset project to be domiciled in Quebec and the project “promoter” to be the sole owner of the carbon offset credits without recognizing the legal authority of other parties.

AHAM requests the regulation change Section 95972(c) “Requirements for Compliance Offset Protocols” to the following:

Requirements for Compliance Offset Protocols **Including Linked Jurisdictions**

Geographic Applicability: A Compliance Offset Protocol must specify where the protocol is applicable **and cannot exclude any linked jurisdictions**. The geographic boundary must be within the US or its territories, Canada or Mexico. **Entities meeting the requirements of the**

California Cap and Trade regulation and its approved and adopted Compliance Offset Protocols qualify as Offset Project Operators in linked jurisdictions.

AHAM appreciates the opportunity to submit comments on the Amendments to the California Cap on Greenhouse Gas Emissions and Market-based Compliance Mechanisms to Allow for the Use of Compliance Instruments Issued by Linked Jurisdictions.

If you have any questions, please contact me at the Association of Home Appliance Manufacturers at 202-872-8755.

Best Regards,

A handwritten signature in blue ink, appearing to read 'Charlotte Skidmore', is positioned below the text 'Best Regards,'.

Charlotte Skidmore
Director, Energy and Environmental Policy