State of California
Air Resources Board

Resolution 09-32

April 24, 2009

Agenda Item No.: 09-4-6

WHEREAS, Health and Safety Code sections 39600 and 39601 authorize the Air Resources Board (ARB or the 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, Health and Safety Code section 44270 et seq., establishes the *California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007*, which creates the Air Quality Improvement Program (AQIP), administered by ARB, to fund air quality improvement projects related to fuel and vehicle technologies with the primary purpose to fund projects to reduce criteria air pollutants, improve air quality, and provide funding for research to determine and to improve the air quality impacts of alternative transportation fuels and vehicles, vessels, and equipment technologies;

WHEREAS, Health and Safety Code section 44274(a) requires ARB to develop Guidelines to implement the AQIP and in development of these Guidelines to hold at least three public workshops and at least one public hearing;

WHEREAS, Health and Safety Code section 44271(c) limits eligible projects to those that are not required to be undertaken pursuant to State or federal law, district rules or regulations, memoranda of understanding, or other legally binding agreements or documents;

WHEREAS, Health and Safety Code section 44274(c) limits eligible projects to the following:

- on-road and off-road equipment projects;
- projects to mitigate off-road gasoline exhaust and evaporative emissions;
- research on the air quality impact of alternative fuels;
- University of California research to increase sustainable biofuels production and improve collection of biomass feedstock;
- lawn and garden equipment replacement;
- Medium-duty and heavy-duty vehicle/equipment projects including lower emission school buses, electric or hybrid vehicles/equipment, and regional air quality programs in the most impacted parts of California;
- Workforce training related to advanced technology to reduce air pollution; and
- Projects to identify and reduce emissions from high-emitting light-duty vehicles;

WHEREAS, Health and Safety Code section 44271(a)(2) directs ARB to establish a competitive process for the allocation of funds for projects;

WHEREAS, Health and Safety Code section 44274(c) allows for AQIP funding mechanisms to include competitive grants, revolving loans, loan guarantees, loans, and other appropriate measures;

WHEREAS, Health and Safety Code section 44274(b) directs ARB to evaluate proposed projects based on their potential reduction of criteria or toxic air pollutants, cost-effectiveness, contribution to regional air quality improvement, and ability to promote the use of clean alternative fuels and vehicle technology;

WHEREAS, Health and Safety Code section 44274(d) requires ARB, beginning January 1, 2011, to submit biennial reports to the Legislature evaluating the implementation of the AQIP;

WHEREAS, section 2340 et seq. of title 13,California Code of Regulations defines the process for ensuring that AQIP complements, and does not interfere with, California's existing air quality programs as required by Health and Safety Code section 44271(b);

WHEREAS, ARB staff conducted four public workshops in April, August, and November of 2008 and February 2009, released concepts and draft regulatory language for public review, and consulted with environmental groups and the California Energy Commission;

WHEREAS, in consultation with stakeholders, ARB staff developed the proposed Guidelines, which include, among other requirements and provisions,:

- a process for developing and the minimum components of an annual Funding Plan;
- requirements for grant project solicitations;
- program administration responsibilities;
- a process for determining compliance with the AB 118 Air Quality Guidelines; and
- program reporting;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project which may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code; and

WHEREAS, the Board has considered the impact of this proposed regulatory action on the economy of the State and the potential for adverse economic impacts on California enterprises and individuals.

WHEREAS, the Board finds that:

1. The proposed Guidelines define the overall administrative requirements as well as the program structure of the AQIP as required by Health and Safety Code section 44274(a).

2. ARB staff complied with health and safety Code section 44274(a) by holding a minimum of three public workshops, with at least one workshop in northern California, one in the Central Valley, and one in southern California.

3. The provisions for Funding Plan components set forth in the proposed Guidelines limit project eligibility to those projects established in the Health and Safety Code and to those projects that are not required by regulation, memorandum of understanding, or legally binding agreement; these provisions are necessary to meet the requirements of Health and Safety Code section 44271 and 44274.

4. The provisions for grant project solicitations set forth in this regulation establish a competitive process for the project selection and define project selection criteria; these provisions meet the requirements of Health and Safety Code sections 44271(a)(2) and 44274(b).

5. The mechanisms for implementation of revolving loan, loan guarantee, or other loan projects set forth in the proposed Guidelines are necessary to provide potential applicants with a clear understanding of how ARB will solicit and evaluate these projects.

6. The provisions for program reporting set forth in the proposed Guidelines require biennial reporting beginning in 2010; these provisions meet the requirements of Health and Safety Code section 44274(d).

7. The proposed Guidelines ensure that the AQIP complements, and do not interfere with, California's existing air quality programs as required by Health and Safety Code section 44271(b).

NOW, THEREFORE, BE IT RESOLVED that the Board approves adoption of the proposed Guidelines, as set forth in title 13, California Code of Regulations, sections 2350, through 2359, and in Attachment A hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to determine if additional conforming modifications to the regulation are appropriate. If no additional modifications are appropriate, the Executive Officer shall take final action to adopt the regulation, as set forth in Attachment A hereto. If the Executive Officer determines that additional conforming modifications are appropriate, the Executive Officer shall adopt the modified regulation after making the modified regulatory language and any additional supporting documents and information available to the public for a period of 15 days, provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such further modifications as may be appropriate in light of the comments received, and shall present the regulation to the Board for further consideration if he determines that this is warranted.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to report to the Legislature biennially beginning in 2011 on the implementation of the AQIP and to include this report in the Funding Plan for that fiscal year.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue to coordinate with the California Energy Commission on further development of the AQIP and the Alternative and Renewable Fuel and Vehicle Technology Program.

I hereby certify that the above is a true and correct copy of Resolution 09-32, as adopted by the Air Resources Board.

Monica Vejar

Monica Vejar, Clerk of the Board

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Identification of Attachments to the Board Resolution

Attachment A: Proposed Regulation to Reduce Greenhouse Gas Emissions from Semiconductor Operations, as set forth in Appendix A to the Initial Statement of Reasons, released January 9, 2009.