



Union of  
Concerned  
Scientists

September 24, 2008

Chairman Mary Nichols and Board Members  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

**RE: AB 118 Air Quality Guidelines Regulation**

Dear Chairman Nichols and Board Members:

The undersigned organizations are writing to submit our comments and recommendations for strengthening the California Air Resources Board's proposed air quality guidelines for both the AQIP program and the Alternative and Renewable Fuel and Vehicle Technology Program. We appreciate the tremendous amount of time and effort that staff has put into this rulemaking and the staff's accessibility in discussing the proposed regulatory concepts and language. We believe the air quality guidelines are extremely important to ensure that California's investment program in alternative fuels and vehicles and low carbon fuels is consistent with and supportive of the state's air quality and global warming reduction targets.

Because California is the third-largest fuels market in the world<sup>1</sup>, its regulations send powerful international market signals. Implementation of AB 118 and the LCFS must send the proper market signals: to encourage development and deployment of sustainable fuels consistent with strong air quality protections and to discourage

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<sup>1</sup> According to the CEC's 2007 Integrated Energy Policy Report, California is 3<sup>rd</sup> after the United States and China.

development and deployment of unsustainable fuels. Furthermore, this rulemaking must avoid unintended consequences of alternative fuel production and use, such as increased air pollution or greenhouse gas emissions that could impact the state or local communities.

While we greatly appreciate the staff's work on the draft regulation as well as their recent proposals to strengthen the draft—to extend the public review period for supplemental analyses and include CARB consultation in development of these analyses—we remain concerned that the regulation will not provide a sufficient level of protection, especially for local communities. Following are the issues we have identified and recommendations for addressing these issues:

**Air Quality Trade-offs Should Face More Restrictions** The AB 118 program should be designed to improve, not merely maintain, air quality in California. Given that this is a funding program for voluntary projects we think that the guidelines should only contemplate rare situations where trade-offs that would increase emissions of a criteria air pollutant or toxic air contaminant could be allowed. However, the proposed regulations allow any project under consideration for AB 118 funds to include an air pollution trade-off as long as the granting agency completes the required analysis and ensures that another project being concurrently funded would mitigate that emission increase somewhere within the same air basin. Instead, we believe this trade-off should only be contemplated in a limited number of projects where the proponent has shown that the increase in pollution cannot be mitigated at the project level.

**CARB Should Be Required To Approve Supplemental Analyses**

When a project with increased emissions of criteria air pollutants or air toxics is recommended for funding, the funding agency must conduct a supplemental analysis according to the proposed regulation. However, that funding agency could be CARB or CEC, depending on the type of project. While staff's recommended change to ensure that CARB would be consulted in the development of the supplemental analysis is helpful, we believe that CARB sign-off should be required for all supplemental analyses for projects that increase air pollutants. This change would ensure that CARB is maintaining essential oversight responsibility over projects that have a significant potential to impact air quality on a statewide and local basis.

**Emissions Of Air Toxics Should Be Treated Differently Than Emissions Of Criteria Air Pollutants**

Clearly, the localized impact of an increase in toxic air contaminants is a major concern and should receive special consideration. For this reason, there are established air district policies that do not allow trading of toxic air contaminants. We are concerned that this regulation could allow a project that increases toxic air contaminants in a local community while authorizing mitigation from a project located in a different part of the air basin. This situation could add to existing inequities and cause adverse public health impacts. While all projects would receive agency and public review at the local level,

we believe this regulation should provide an additional layer of protection against localized increases in toxic air contaminants.

**Offsets Should Be Located In Close Proximity To Projects With Pollution Increases**

In those very limited situations where trade-offs may be allowed, we agree that offsets should be required to ensure no loss of air quality benefits. However, use of offsets for those projects approved for funding should be more geographically limited than proposed by staff. Allowing offsets to be used within the same air basin is too large a geographic area and could result in unacceptable localized impacts. Offsets should be required to be located within close proximity to the project for which the offset is granted.

Also, the program should seek to develop projects that can deliver emissions reductions that would be considered surplus under current regulations and that go beyond current BACT requirements for infrastructure and fuels projects. Supporting those projects that deliver better-than-required air pollution and technology benefits could help regions meet their SIP Black Box requirements and would be the best way to serve environmental justice goals.

Thank you for your careful consideration of our concerns and recommendations.

Sincerely,



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V. John White  
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