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ROGER NIELLO
ASSEMBLYMAN, FIFTH DISTRICT

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January 28, 2009

Ms. Mary Nichols, Chair
California Air Resources Board
1001 I Street
Sacramento CA 95814

Re: AB 32 Scoping Plan Economic Analysis Deliverables
Economic Analysis for Low Carbon Fuel Standard

Dear Chairman Nichols:

I am pleased to observe that your staff will be conducting a workshop on January 29 to report on how it will meet the requirements for economic analysis included in the Air Resources Board's December 11, 2008 resolution adopting the AB 32 Scoping Plan. These analyses are necessary to inform the Board and the public about the costs of proposed regulations to implement the Scoping Plan, and to allow the Board to chart the most cost-effective course forward in achieving the ambitious goals of AB 32.¹

In order for these analyses to truly be meaningful, the development of regulations must include the development of regulatory alternatives in sufficient detail to allow a determination of which alternative approach will meet the emission reduction goals of AB 32 in the most cost-effective manner. Failure to develop meaningful alternative methods of implementing each measure will only yield a return to the take-it-or-leave-it analysis that was done for the scoping plan.

The role of these analyses in developing regulations to implement each of the scoping plan measures is to identify the best way of implementing the scoping plan measures, not to compare the cost of the board's only approach to the cost of 'doing nothing.'

The Board has important work before it in completing these analyses and using them to inform the implementation process. I note with some concern that the Board intends to adopt the Low Carbon Fuel Standard in April of this year, with notice of the proposed regulation to be released in early March, roughly six weeks from now. One might

¹ An excerpt of the Scoping Plan Resolution is attached, which identifies those provisions of the Resolution relating to economic analysis. The paragraphs are numbered as they appear in the Resolution, for ease of reference.

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reasonably question how the Board will complete the tasks identified in paragraphs 20, 21, 24, 25, and 26 in the enclosed attachment, within the next month and a half.

It would not likely be considered a good start to the Air Resources Board's commitment to sound economic analysis if it rapidly adopts one of the Scoping Plan's most significant rules without accomplishing these analyses in a meaningful way. The Independent Peer Review and the Legislative Analyst Office report both identified significant issues with the way that the Air Resources Board calculated the costs and benefits for the Low Carbon Fuel Standard in the scoping plan economic analysis. These shortcomings should be cured in the economic analysis for the rule itself, and the Board should give itself adequate time to complete this work, in the interests of a credible and workable rule.

To complete this task, it would seem that the Board will need to identify the cost per ton of CO2 emission reductions which the measure contemplates, both for gasoline emissions and separately for diesel emissions, as well as the marginal cost per ton for the maximum reductions proposed in the rule. This analysis would allow the Air Resources Board to design alternatives for implementing the Low Carbon Fuel Standard, which would then allow meaningful consideration of which is the most cost-effective alternative.

I look forward to reviewing the Air Resources Board's plans for sound economic analysis of AB 32 measures. If I or my staff can be of any assistance, please do not hesitate to contact me.

Sincerely,



ROGER NIELLO
Assemblyman, 5th District



ATTACHMENT A

A review of the Scoping Plan resolution reveals the following items relating to economic analysis:²

20. BE IT FURTHER RESOLVED that the Board directs the Executive Officer to solicit input from experts to advise ARB on its continuing evaluation of the economic effects of implementing AB 32, including identification of additional models or other economic analysis tools that could be used in the ongoing economic analysis. This will include opportunities for interested parties to share their economic modeling results.

21. BE IT FURTHER RESOLVED that the Board directs the Executive Officer to consider the effects of the program on the overall California economy as staff develops the cap-and-trade regulations and to take into account the joint opinion adopted by the PUC and the CEC on October 17, 2008, while recognizing that the joint opinion was developed based on consideration of the electricity and natural gas sectors, and that the recommendations in the opinion may need to be adapted to meet the needs of the California economy as a whole.

22. BE IT FURTHER RESOLVED that the Board directs the Executive Officer to solicit expert input on key questions related to the distribution or auction of allowances and the use of revenue.

23. BE IT FURTHER RESOLVED that the Board directs the Executive Officer, as part of the cap-and-trade rulemaking, to consider the economic implications of different cap-and-trade program design options, including:

- various scenarios for allowance distribution (percent auction vs. free distribution, method of distribution);
- various scenarios for the use of auction revenue;
- the initial cap level and the rate of decline of the cap over time;
- the potential supply of offsets within and outside California; and
- the economic and co-benefit effects of limits on the use of offsets.

24. BE IT FURTHER RESOLVED that the Board directs the Executive Officer to coordinate the economic analysis of California's AB 32 program with the analysis conducted for the Western Climate Initiative.

² Paragraphs in the resolution have been numbered as they appear in the resolution for ease of reference

25. BE IT FURTHER RESOLVED that the Board directs the Executive Officer to work with California small businesses during the development of Scoping Plan regulations, to consider the size of the business and type of industry in developing the regulations, and to identify financing programs that could help alleviate costs to small businesses.

26. BE IT FURTHER RESOLVED that the Board directs the Executive Officer to work with the CEC, the PUC and other agencies, as appropriate, to ensure that California's energy demands are met, and that the Scoping Plan and AB 32 are implemented in a manner to avoid disproportionate geographic impacts on energy rates.

28. BE IT FURTHER RESOLVED that the Board directs the Executive Officer to consider the economic and public health impacts of proposed regulations to implement the Scoping Plan, as well as the requirements of section 38562(b) and 38570(b), as appropriate. For sector-specific regulations affecting sources that are also included in the cap-and-trade program, the staff shall also propose findings to identify the reasons that the emission reductions are best achieved using the proposed regulatory approach.

29. BE IT FURTHER RESOLVED that the Board directs the Executive Officer, by December 31, 2009, to examine and report on:

- estimates of overall costs and savings and the cost-effectiveness of the reductions, including appropriate inclusion of reductions in co-pollutants;
- estimates of the timing of capital investments, annual expenditures to repay those investments, and the resulting cost savings;
- sensitivity of the results to changes in key inputs, including energy price forecasts and estimates of measure costs and savings; and
- impacts on small businesses.