State of California
AIR RESOURCES BOARD

Resolution 07-54

December 6, 2007

Agenda Item No.: 07-12-3

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (ARB or 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, the Legislature has enacted the Global Warming Solutions Act of 2006 (AB 32; Health and Safety Code section 38500 et seq.), which declares that global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California, and creates a comprehensive multi-year program to reduce California's greenhouse gas (GHG) emissions to 1990 levels by 2020;

WHEREAS, AB 32 designates the Air Resources Board (ARB or Board) as the State agency charged with monitoring and regulating sources of GHG emissions in order to reduce these emissions;

WHEREAS, AB 32 added section 38530 to the Health and Safety Code, which directs ARB, on or before January 1, 2008, to adopt regulations to require the reporting and verification of statewide GHG emissions;

WHEREAS, section 38530 of the Health and Safety Code also requires that the GHG reporting regulations shall:

1. Require annual reporting, beginning with the largest emission sources;
2. Account for GHG emissions from all electricity consumed in the State, including imports and line losses;
3. Where appropriate and to the maximum extent feasible, incorporate the standards and protocols developed by the California Climate Action Registry (CCAR);
4. Ensure that participants in the CCAR are not required to alter their existing reporting or verification program except as necessary to ensure that reporting is complete and verifiable;
5. Ensure rigorous and consistent emissions accounting, and provide reporting tools and formats to ensure collection of necessary data;
6. Ensure that GHG emission sources maintain comprehensive records of all reported GHG emissions; and
7. Make reasonable efforts to promote consistency with existing and proposed international, federal, and State GHG emission reporting programs;

WHEREAS, mandatory GHG reporting supports California's efforts to improve our GHG emission inventory, track emissions trends, support regulatory development, and assist in the development of possible carbon trading markets;

WHEREAS, in 2007 ARB staff conducted five public workshops, held over fifteen technical workgroup meetings, and participated in various other stakeholder meetings in order to include the public and affected stakeholders in the regulatory development process;

WHEREAS, ARB staff worked closely with staff of the California Climate Action Registry (CCAR) who provided invaluable technical assistance and helped to ensure consistency, to the maximum extent feasible, between the voluntary CCAR reporting program and the proposed mandatory GHG reporting regulations;

WHEREAS, ARB staff prepared a staff report entitled *"Initial Statement of Reasons for Rulemaking, Proposed Regulation for Mandatory Reporting of Greenhouse Gas Emissions Pursuant to the California Global Warming Solutions Act of 2006 (Assembly Bill 32)"* (Initial Statement of Reasons), which presents the rationale for the proposed regulations;

WHEREAS, the Initial Statement of Reasons and proposed regulatory language were made available to the public for at least 45 days prior to the December 6, 2007 Board hearing;

WHEREAS, ARB staff considered less prescriptive standards and procedures for reporting but determined that these would be less effective in providing complete, consistent, verifiable and accurate GHG emissions data;

WHEREAS, ARB staff received and considered the recommendations of the California Public Utilities Commissions and the California Energy Commission for emissions reporting in the electricity sector, and the three agency staffs participated in the public processes of each agency;

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, the Board has considered the impact of the proposed regulations on the economy of the State and the potential for adverse economic impacts on California business enterprises and individuals;

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;

WHEREAS, in consideration of the information in the public record including the Initial Statement of Reasons, written comments, and testimony provided at the hearing, the Board finds that:

1. The proposed regulations meet the requirements specified in section 38530 of the Health and Safety Code;

2. The emission estimation methods, schedules, and other provisions of the proposed regulations focus on the most significant GHG emission sources, use rigorous and consistent emission accounting methods, provide accounting for all electricity consumed in the state including imports, require verification of emissions data, and to the extent feasible, maintain consistency with other GHG reporting programs;

3. Annual reporting of GHG emissions and supporting information from electricity generating facilities, electricity retail providers, electricity marketers, oil refineries, hydrogen plants, cement plants, cogeneration facilities, and industrial sources that emit over 25,000 metric tonnes per year of CO_2 from stationary source combustion is necessary to include the most significant California GHG emission sources;

4. The proposed regulations, to the maximum extent feasible and appropriate, incorporate the standards and protocols developed by the California Climate Action Registry;

5. The proposed regulations include reporting requirements beyond those currently utilized by the California Climate Action Registry for voluntary emissions reporting; these regulatory requirements are necessary for the ARB's mandatory reporting regulations to ensure that reporting is complete and verifiable for the purposes of compliance with AB 32;

6. The proposed regulations require certain entities in California's electricity sector to report information on their out-of state activities; this information is necessary for ARB staff to understand how to intelligently design a future regulatory system for the electricity sector that is equitable, will minimize leakage, and will otherwise conform to the requirements of AB 32;

7. The "Interim Emissions Attribution Methods for the Electricity Sector" (Attachment C to the Initial Statement of Reasons) reflect the recommendations of the California Public Utilities Commissions and the California Energy Commission. Attachment C does not impose any regulatory requirements, and the inclusion of an emissions attribution method or emission factor in Attachment C does not necessarily mean that it would be used in any future regulatory system for the electricity sector;

8. Third-party verification of GHG emissions data is necessary to ensure credible and accurate greenhouse gas emissions accounting and compatibility with existing and proposed international and state GHG reporting programs;

9. The economic and cost impacts of the proposed regulations have been analyzed as required by California law and the conclusions and supporting documentation for these analyses are set forth in the Initial Statement of Reasons;

10. The reporting requirements of the proposed regulations which apply to businesses are necessary for the health, safety, and welfare of the people of the State; and

11. No reasonable alternative considered or that has otherwise been identified and brought to the attention of the ARB would be more effective in carrying out the purpose for which the regulations are proposed, or be as effective and less burdensome to affected private persons and businesses than the proposed regulations.

WHEREAS, pursuant to the requirements of the California Environmental Quality Act and the Board's regulations, the Board further finds that the proposed regulations will not result in any significant adverse environmental impacts;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves sections 95100 to 95133, title 17, California Code of Regulations, as set forth in Attachment A hereto, with the modifications to those sections set forth in Attachment B hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to take final action to adopt the proposed regulations as set forth in Attachment A hereto, with the modifications as set forth in Attachment B and such other conforming modifications as may be appropriate, after making the modified regulatory language and any additional supporting documents and information available for public comment for a period of 15 days as required by Government Code section 11346.8, provided that the Executive Officer shall consider such written comments regarding the modifications and additional supporting documents and information as may be submitted during this period, shall make modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if he determines that this is warranted.

BE IT FURTHER RESOLVED that the Board directs staff to develop a reporting tool and technical assistance document, and develop a training and certification program to ensure that adequate numbers of qualified emission verifiers are available.

BE IT FURTHER RESOLVED that the Board directs the staff to return to the Board as needed to amend the GHG reporting regulations to include additional emission sources, update emission estimation methods, or provide other enhancements to the regulations.

I hereby certify that the above is a true and correct copy of Resolution 07-54, as adopted by the Air Resources Board.

Lori Andreoni

Lori Andreoni, Clerk of the Board

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Identification of Attachments to the Board Resolution

Attachment A: Proposed Regulation Order: Mandatory Reporting of Greenhouse Gas Emissions (sections 95100 to 95133, title 17, California Code of Regulations), as set forth in Appendix A to the Initial Statement of Reasons, released October 19, 2007.

Attachment B: Staff's Suggested Modifications to the Original Proposal (Distributed at the Board hearing on December 6, 2007).