State of California
Air Resources Board

Resolution 08-40

September 25, 2008

Agenda Item No.: 08-8-7

WHEREAS, sections 39600 and 39601 of the Health and Safety Code 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, the California Clean Air Act, in section 40910 et seq. of the Health and Safety Code, requires ARB and the air districts to adopt and implement plans to achieve the state ambient air quality standards by the earliest practicable date;

WHEREAS, section 43018 of the Health and Safety Code directs ARB to achieve the maximum degree of emission reduction possible from motor vehicles and other mobile sources;

WHEREAS, section 44270 et seq. of the Health and Safety Code establishes the *California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007* creating two new incentive programs:

- The Alternative and Renewable Fuel and Vehicle Technology Program, administered by the State Energy Resources Conservation and Development Energy Commission (Energy Commission), to develop and deploy technology and alternative and renewable fuels in the marketplace to help attain California's climate change policies; and

- The Air Quality Improvement Program (AQIP), administered by ARB, to fund air quality improvement projects related to fuel and vehicle technologies;

WHEREAS, section 44271(b) of the Health and Safety Code directs ARB to develop air quality guidelines which ensure that both the AQIP and the Alternative and Renewable Fuel and Vehicle Technology Program complement, and do not interfere with, California's existing air quality programs;

WHEREAS, Governor Schwarzenegger's Executive Order S-03-05 established targets for the State to reduce greenhouse gas emissions to the 2000 level by 2010; to the 1990 level by 2020; and to 80 percent below the 1990 level by 2050;

WHEREAS, AB 32 (Núñez), Chapter 488, Statutes of 2006, directs ARB to conduct several activities to reduce greenhouse gas emissions and to ensure these activities do

not interfere with efforts to attain ambient air quality standards and reduce toxic air contaminants;

WHEREAS, Governor Schwarzenegger's Executive Order S-01-07 established a Low Carbon Fuel Standard with the objective of reducing the carbon intensity of California's transportation fuels by at least ten percent by 2020;

WHEREAS, on June 21, 2007, the Board considered and approved the Low Carbon Fuel Standard as a discrete Early Action Item for AB 32, consistent with Executive Order S-01-07;

WHEREAS, the Energy Commission, on June 27, 2007, approved a full fuel cycle analysis which evaluated the impacts of various alternative fuels on the emissions of greenhouse gases, criteria air pollutants, toxics air contaminants, and other environmental media;

WHEREAS, ARB, on November 15, 2007, approved the State Alternative Fuels Plan (Plan) that:

- Recognized the full fuel cycle analysis approved by the Energy Commission on June 27, 2007, as the supporting technical evaluation of alternative transportation fuels for the Plan;
- Encouraged the use of alternative fuels that achieve further reductions in criteria and toxic air pollutants to support the State's commitments, under the State Implementation Plan, to improve air quality and attain ambient air quality standards;
- Recognized that the Plan should be viewed as part of a continuum that requires periodic update and refinement of the underlying analyses and assumptions to reflect the changing market for alternative fuels, the economics of fuels production and use, and filling data gaps to support the full fuel cycle comparison of fuels and vehicle combinations;
- Recognized that the Low Carbon Fuel Standard provides a durable framework for the production and use of alternative fuels and for the stimulation of technology innovation;
- Recognized that successful development and implementation of the Low Carbon Fuel Standard and AB 118 is dependent upon close coordination with the Energy Commission; and
- Directed ARB staff to work with the Energy Commission to ensure that funds expended pursuant to AB 118 provide the maximum possible benefits in terms of air quality improvement and greenhouse gas reduction.

WHEREAS, the Board will consider updates and improvements to the full fuel cycle analysis as part of the rulemaking for the Low Carbon Fuel Standard;

WHEREAS, ARB staff conducted two public workshops in April 2008 and June 2008, released concepts for public review, and held several meetings throughout the

rulemaking process with environmental groups and the Energy Commission, in order to involve the public and affected stakeholders in the regulatory development process;

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;

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 provisions of this regulation meet the requirements of section 44271(b) of the Health and Safety Code ensuring that AQIP and the Alternative and Renewable Fuel and Vehicle Technology Program complement, and do not interfere with, efforts to achieve and maintain ambient air quality standards and reduce toxic air contaminant emissions and maintain or improve upon the air quality benefits of the State Implementation Plan (SIP) for Ozone, California Phase 2 Reformulated Gasoline, and Diesel Fuel Programs;

2. It is important to maintain consistency between State programs for determining full fuel cycle emissions;

3. When adopted, the updates and improvements to full fuel cycle analysis considered as part of the rulemaking for the Low Carbon Fuel Standard will represent the current state of the science for evaluating lifecycle emissions of fuels;

4. The regulation properly includes a backup tool for elevating full fuel cycle emissions in the event that the Low Carbon Fuel Standard has not been adopted in the necessary time frame to evaluate projects for funding under these programs;

5. It is important for AQIP and the Alternative and Renewable Fuel and Vehicle Technology Program to provide the maximum possible air quality and greenhouse gas reductions in order to meet the State's SIP commitments and greenhouse gas reduction targets;

6. The regulation recognizes that the funding of emerging technologies are needed to achieve the State's multiple policy goals of achieving GHG, ambient air quality, and toxic air contaminants;

7. It is important for ARB and the Energy Commission to continue to work together for the ongoing success of both AQIP and the Alternative and Renewable Fuel and Vehicle Technology Program;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves sections 2340, 2341, 2342, 2344, and 2345, Title 13, California Code of Regulations (CCR), as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt section 2343, Title 13, CCR, after making the modified regulatory language in Attachment B available for public comment for a period of 15 days, provided that the Executive Officer shall consider such written comments regarding the modification 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 RESOVED that the Board directs the Executive Officer as part of the rulemaking for the Low Carbon Fuel Standard to revise section 2343(b) of this regulation to add specific reference to appropriate sections of the Low Carbon Fuel Standard for full fuel cycle analysis.

BE IT FURTHER RESOVED that until Board adoption of the Low Carbon Fuel Standard, the Board directs ARB and the Energy Commission to use the *August 2007 Full Fuel Cycle Assessment: Well-to-Wheels Energy Inputs, Emissions, and Water Impacts,* approved by the Energy Commission on June 27, 2007, along with consideration of additional life cycle emission-related factors relevant in evaluating potential projects, but not quantifiable with this analytical tool, such as indirect land use, for full fuel cycle analysis.

BE IT FURTHER RESOVED that the Board directs the Executive Officer to continue to work with the Energy Commission on further development of 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 08-40, as adopted by the Air Resources Board.

Monica Vejar

Monica Vejar, Clerk of the Board

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Identification of Attachments to the Resolution

Attachment A: The Proposed Regulation for the AB 118 Air Quality Guidelines for the Air Quality Improvement Program and the Alternative and Renewable Fuel and Vehicle Technology Program (released August 8, 2008).

Attachment B: Staff's Suggested Modifications to the Original Proposal, presented at the September 25, 2008 Board hearing.