State of California
AIR RESOURCES BOARD

Resolution 09-22

February 26, 2009

Agenda Item No.: 09-2-3

WHEREAS, the California Global Warming Solutions Act of 2006 (AB 32; Stats 2006, ch. 488, Health and Safety Code section 38500 et seq.), 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, section 38505 of the Health and Safety Code defines "greenhouse gases" as including carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride;

WHEREAS, section 38510 of the Health and Safety Code designates the Air Resources Board (ARB or the Board) as the State agency charged with monitoring and regulating sources of GHG emissions in order to reduce these emissions;

WHEREAS, section 38560 of the Health and Safety Code directs the Board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective GHG emission reductions from sources or categories of sources, subject to the criteria and schedules specified in Part 4 of Division 25.5 of the Health and Safety Code;

WHEREAS, section 38560.5 of the Health and Safety Code requires the Board to publish and make available a list of discrete early action GHG emission reduction measures (early action measures) by June 30, 2007;

WHEREAS, section 38560.5 of the Health and Safety Code directs the Board to adopt regulations to implement the discrete early action measures identified on the list, and specifies that the regulations shall be enforceable no later than January 1, 2010;

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize 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, in September 2007, ARB staff released for public review a draft report entitled "Expanded List of Early Action Measures to Reduce Greenhouse Gas Emissions in California Recommended for Board Consideration" (staff report), which set forth staff's proposed expanded list of early actions; the staff report was released in final form in October 2007 for public review prior to the Board meeting;

WHEREAS, the staff report recommended that a measure to reduce GHG emissions from semiconductor operations using high global warming potential (GWP) compounds be identified as a discrete early action measure pursuant to section 38560.5 of the Health and Safety Code;

WHEREAS, after a public meeting on October 25, 2007, the Board approved the reduction of GHG emissions in the semiconductor industry as a discrete early action measure and directed staff to develop it into a regulation;

WHEREAS, after a public meeting on December 11, 2008, the Board approved the Climate Change Scoping Plan which includes the semiconductor discrete early action measure;

WHEREAS, in 2008 ARB staff conducted four public workshops and participated in over 19 stakeholder meetings in order to include the public and affected stakeholders in the regulatory development process;

WHEREAS, ARB staff has prepared a staff report entitled "Initial Statement of Reasons for Proposed Regulation to Reduce Greenhouse Gas Emissions from Semiconductor Operations" (ISOR) which presents the rationale for the proposed regulation;

WHEREAS, the ISOR and proposed regulatory language were made available to the public for at least 45 days prior to the public hearing to consider the proposed regulation;

WHEREAS, staff has proposed a regulation that, when fully implemented, will achieve GHG emission reductions equivalent to reducing about 0.18 million metric tons of carbon dioxide (MMT CO_2e) per year from semiconductor operations;

WHEREAS, the proposed emission limits would become effective on January 1, 2012, except that the limits for owners or operators replacing 150 millimeter wafer processing tools with 200 millimeter or larger tools would become effective on January 1, 2014;

WHEREAS, the proposed regulation would adopt new Subarticle 2, title 17 California Code of Regulations, sections 95320 to 95326, as set forth in Attachment A hereto;

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

WHEREAS, the Board has considered the community impacts of proposed regulations, including environmental justice concerns;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project that 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, in consideration of the information in the public record, including the ISOR, written comments, and testimony provided at the hearing, the Board finds that:

The proposed regulation meets the requirements specified in section 38560.5 of the Health and Safety Code;

The proposed emission limits, when fully implemented, will reduce GHG emissions by 0.18 MMT CO_2e per year;

The economic impacts of the proposed regulation have been analyzed as required by California law, and the conclusions and supporting documentation for this analysis are set forth in the ISOR;

The cost-effectiveness of the proposed regulation has been considered, and the regulation will achieve cost-effective GHG emission reductions;

The benefits to human health, public safety, public welfare, or the environment justify the costs of the proposed regulation;

The proposed regulation is consistent with ARB's environmental justice policies and will equally benefit residents of any race, culture or income level;

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

The proposed regulation meets the criteria set forth in section 38562 of the Health and Safety Code; and

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the adoption of sections 95320, 95321, 95322, 95323, 95324, 95325, and 95326, title 17, California Code of Regulations, as set forth 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 take the following actions: (1) monitor the progress of semiconductor operations in meeting the emission limits, and (2) identify any significant problems in achieving the emission limits and propose any future regulatory modifications that may be appropriate.

BE IT FURTHER RESOLVED that the Board directs the ARB staff to develop a tool to help the semiconductor industry perform emission calculations and standardize the annual emissions report required by the proposed regulation.

I hereby certify that the above is a true and correct copy of Resolution 09-22, 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.