State of California
AIR RESOURCES BOARD

INTERIM GUIDANCE FOR AGENCIES RECEIVING MONIES FROM THE GHG REDUCTION FUND

Resolution 14-30

September 18, 2014

Agenda Item No.: 14-7-4

WHEREAS, the California Global Warming Solutions Act of 2006 (Assembly Bill 32 or AB 32; Chapter 488, Statutes of 2006; 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 environment of California;

WHEREAS, AB 32 directed the Air Resources Board (ARB or Board) to create a comprehensive multi-year program to reduce California's greenhouse gas (GHG) emissions to no greater than 1990 levels by 2020, and to maintain and continue reductions in emissions of GHGs beyond 2020;

WHEREAS, Health and Safety Code section 38561(a) directs the Board to prepare and approve a Scoping Plan for achieving the maximum technologically feasible and cost-effective reductions in GHG emissions by 2020;

WHEREAS, Health and Safety Code section 38561(b) requires the Scoping Plan to identify and make recommendations on direct emission reduction measures, alternative compliance mechanisms, market-based compliance mechanisms, and potential monetary and nonmonetary incentives for sources and categories of sources that the Board finds necessary or desirable to facilitate the achievement of the maximum feasible and cost-effective reductions of GHG emissions by 2020;

WHEREAS, Health and Safety Code sections 38562(c) and 38570 authorize the Air Resources Board to adopt regulations that utilize market-based compliance mechanisms;

WHEREAS, pursuant to the regulatory purposes of Division 25.5 (commencing with Section 38500) of the Health and Safety Code, ARB, in Resolution 11-32, adopted regulations, specified in Sections 95800 to 96022, inclusive, of Title 17 of the California Code of Regulations, that utilize a market-based compliance mechanism;

WHEREAS, ARB Resolution 13-15 recognizes that:

- the Administration's "Draft Investment Plan for Cap-and-Trade Auction Proceeds" (Investment Plan) which identifies priority programs that could be

funded with auction proceeds and further the purposes of AB 32, was developed in accordance with regulatory requirements; and

- the Investment Plan provides a balanced approach for addressing major sources of greenhouse gas emissions in California, while supporting investments in disadvantaged communities, job opportunities, and the continued growth of the California economy;

WHEREAS, Government Code section 16428.8 created the Greenhouse Gas Reduction Fund as a special fund in the State Treasury to receive all monies, except for fines and penalties, collected by ARB from the auction or sale of allowances, pursuant to a market-based compliance mechanism established pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code and specified in Sections 95800 to 96022, inclusive, of Title 17 of the California Code of Regulations;

WHEREAS the Budget Acts for Fiscal Year 2013-14 and Fiscal Year 2014-15 appropriate monies from the Greenhouse Gas Reduction Fund for programs that will reduce GHG emissions, and provide additional environmental and economic co-benefits, including a subset that offer direct investments in and benefits to disadvantaged communities;

WHEREAS, Health and Safety Code section 39713 requires that the Investment Plan allocate a minimum of 25 percent of the available monies in the Greenhouse Gas Reduction Fund to projects that provide benefits to the disadvantaged communities identified pursuant to Health and Safety Code section 39711, and that the Investment Plan allocate a minimum of 10 percent of the available monies in the Greenhouse Gas Reduction Fund to projects located within disadvantaged communities identified pursuant to Health and Safety Code section 39711;

WHEREAS, associated legislation under Public Resources Code sections 75210 to 75230 establishes additional requirements for certain agencies and programs, including some program-specific percentage targets for expenditures that benefit disadvantaged communities;

WHEREAS, Health and Safety Code section 39715 requires ARB, in consultation with the California Environmental Protection Agency (CalEPA), to develop funding guidelines for administering agencies that receive appropriations from the Greenhouse Gas Reduction Fund, including a component for how administering agencies should maximize benefits for disadvantaged communities;

WHEREAS, Health and Safety Code section 39715 requires that ARB provide an opportunity for public input prior to finalizing the funding guidelines;

WHEREAS, ARB is developing the funding guidelines in stages, focusing initially on interim guidance that will enable agencies to move forward with program development, followed by full funding guidelines scheduled for 2015; and

WHEREAS, on August 22, 2014, ARB released for public comment staff's document entitled "Investments to Benefit Disadvantaged Communities, Senate Bill 535 (De León, Chapter 830, Statutes of 2012), Cap-and-Trade Auction Proceeds Interim Guidance to Agencies Administering Greenhouse Gas Reduction Fund Monies -- Draft for Comment" (Interim Guidance);

WHEREAS, on September 17, 2014, ARB released staff's proposed revisions to the Interim Guidance (Revised Draft Interim Guidance), which respond to comments by administering agencies and the public, for consideration by the Board;

WHEREAS, in consideration of the draft and Revised Draft Interim Guidance, staff's presentation, and public testimony and comments, the Board finds that:

1. The draft Interim Guidance provides guidance to agencies administering Greenhouse Gas Reduction Fund monies on approaches to maximize benefits to disadvantaged communities, in accordance with the requirements of Health and Safety Code section 39715.
2. The draft Interim Guidance provides direction to agencies administering Greenhouse Gas Reduction Fund monies for projects benefitting disadvantaged communities to conduct outreach to improve the ability of eligible applicants from disadvantaged communities to access these monies.
3. The draft Interim Guidance provides criteria for use by agencies administering Greenhouse Gas Reduction Fund monies to determine whether an agency's Greenhouse Gas Reduction Fund investments are located within or provide benefits to disadvantaged communities, in accordance with the requirements Health and Safety Code sections 39713 and 39715.
4. The draft Interim Guidance furthers the goals and purposes of the California Global Warming Solutions Act of 2006, Senate Bill 535 (De León, Chapter 830, Statutes of 2012), Assembly Bill 1532 (Pérez, Chapter 807, Statutes of 2012), and Senate Bill 862 (Senate Budget and Fiscal Review Committee, Chapter 36, Statutes of 2014).
5. The draft Interim Guidance identifies estimates for percentages of Greenhouse Gas Reduction funds targeted to disadvantaged communities, and that approximately 30 percent of the overall Fiscal Year 2014-15 funding is anticipated to support projects that benefit disadvantaged communities, consistent with the targets of Health and Safety Code section 39713.
6. The draft Interim Guidance identifies agencies that are expected to expend more than 25 percent of funding to benefit disadvantaged communities, and other agencies that are expected to expend less, based on the nature of their programs.
7. The Draft Interim Guidance describes criteria for evaluating benefits to disadvantaged communities for project types that are consistent with the project types appropriated monies by the Budget Acts for Fiscal Year 2013-14 and Fiscal Year 2014-15.

8. ARB staff consulted with CalEPA on the development of the draft Interim Guidance.
9. ARB staff received assistance and feedback from agencies administering Greenhouse Gas Reduction funds on development of concepts for the draft Interim Guidance.
10. ARB staff received and reflected input from community organizations that were active in supporting the SB 535 legislation.
11. ARB staff held three joint public workshops with CalEPA in Fresno, California on August 25, 2014, in Los Angeles, California on August 26, 2014, and in Oakland, California on September 3, 2014, as well as a public briefing in Mecca, California on September 10, 2014. Participants provided input on approaches developed by CalEPA and the Office of Environmental Health Hazard Assessment to identify disadvantaged communities and on ARB's draft Interim Guidance in accordance with the requirements of Health and Safety Code sections 39713 and 39715. Over 400 people attended the workshops, and over 130 comment letters were submitted representing over 200 different individuals or organizations.
12. ARB staff consulted with other administering agencies to discuss the input from the workshops and each agency's views.
13. The workshop discussions, written public comments, and consultation with administering agencies, informed staff's proposed amendments to the Interim Guidance, presented as the Revised Draft Interim Guidance.

NOW, THEREFORE, BE IT RESOLVED that the Board affirms that the draft Interim Guidance was developed in accordance with the requirements set forth in Health and Safety Code sections 39711, 39712, 39713, 39715, and 39716.

BE IT FURTHER RESOLVED that the Revised Draft Interim Guidance supports investments in projects that reduce greenhouse gas emissions in California and assist disadvantaged communities through benefits including, but not limited to: improved air quality, increased access to transit, enhanced green space, lower energy costs, and employment and job training opportunities.

BE IT FURTHER RESOLVED that the Revised Draft Interim Guidance establishes strategies to maximize benefits to disadvantaged communities, as well as criteria for evaluating whether a project is located within a disadvantaged community and provides benefits to a disadvantaged community or communities that are direct, meaningful, and assured.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to finalize the Revised Draft Interim Guidance that reflects the staff's proposed amendments, and any revisions directed by the Board.

BE IT FURTHER RESOLVED that the Board recognizes there have been concerns expressed regarding the identification of disadvantaged communities and supports

CalEPA's continued work to refine and improve the methods for identifying those communities.

BE IT FURTHER RESOLVED that the Board directs the staff to develop full funding guidelines for consideration by the Board in 2015, consistent with Health and Safety Code section 39715, including recordkeeping, reporting, quantification methodologies for greenhouse gas reductions, and other measures to ensure robust accountability, transparency, and public access to information on expenditures from the Greenhouse Gas Reduction Fund and the associated benefits.

BE IT FURTHER RESOLVED that the Board directs the staff to continue coordinating closely with administering agencies, advocates for disadvantaged communities, and other stakeholders during implementation of the Interim Guidance and development of the full funding guidelines.

I hereby certify that the above is a true and correct copy of Resolution 14-30 as adopted by the Air Resources Board.

Tracy Jensen

Tracy Jensen, Clerk of the Board