State of California
AIR RESOURCES BOARD

Resolution No. 07-42

September 27, 2007

Agenda Item No. 07-9-5

WHEREAS, the Legislature in Health and Safety Code section 39602 has designated the State Air Resources Board (ARB or Board) as the air pollution control agency for all purposes set forth in federal law;

WHEREAS, the ARB is responsible for the preparation of the State Implementation Plan (SIP) for attaining and maintaining the national ambient air quality standards (NAAQS) as required by the federal Clean Air Act (the "Act"; 42 U.S.C. section 7401 *et seq.*), and to this end is directed by Health and Safety Code section 39602 to coordinate the activities of all local and regional air pollution control and air quality management districts (districts) necessary to comply with the Act;

WHEREAS, section 39602 of the Health and Safety Code also provides that the SIP shall include only those provisions necessary to meet the requirements of the Act;

WHEREAS, the ARB has primary responsibility for the control of air pollution from vehicular sources, including motor vehicle fuels, as specified in sections 39002, 39500, and part 5 (commencing with section 43000) of the Health and Safety Code, and for ensuring that the Districts meet their responsibilities under the Act pursuant to sections 39002, 39500, 39602, 40469, and 41650 of the Health and Safety Code;

WHEREAS, the ARB is authorized by Health and Safety Code section 39600 to do such acts as may be necessary for the proper execution of its powers and duties;

WHEREAS, sections 39515 and 39516 of the Health and Safety Code provide that any duty may be delegated to the Board's Executive Officer as the Board deems appropriate;

WHEREAS, the Department of Pesticide Regulation is authorized to control the use of pesticides for the purposes of protecting human health and the environment, including improving air quality, pursuant to Food and Agriculture Code Sections 14102, 12781, 12824-12828, and 12976 *et seq.*;

WHEREAS, in the 1994 1-hour Ozone SIP, the Department of Pesticide Regulation (DPR) committed to obtain Reactive Organic Gas (ROG) emission reductions from pesticides in five nonattainment areas, including the Ventura County nonattainment area:

WHEREAS, for Ventura DPR committed in the 1994 1-hour Ozone SIP to achieve a target of 20 percent pesticide ROG emission reductions from the 1990 base year emissions by 2005;

WHEREAS, the 20 percent target has not been achieved in Ventura; the difficulty in reaching the target is due in part to the very large increase since 1990 in the amount of acreage under cultivation with crops requiring fumigation;

WHEREAS, Ventura County attains the federal 1-hour ozone standard;

WHEREAS, in July 1997 the U.S. Environmental Protection Agency (U.S. EPA) promulgated a new 8-hour NAAQS for ozone of less than 0.08 parts per million;

WHEREAS, U.S. EPA has classified Ventura County as a moderate nonattainment area for the 8-hour ozone standard with an attainment deadline of June 2010;

WHEREAS, ARB staff's analysis, based on photochemical modeling of ozone formation in Ventura County, indicates that the Ventura County nonattainment area (Ventura) will not attain the 8-hour ozone standard in 2010 by relying solely on the emission reductions that will occur from already adopted control measures;

WHEREAS, the Ventura County Air Pollution Control District is expected to request that it be reclassified to a serious nonattainment designation with an attainment deadline of June 2013;

WHEREAS, a mid-calendar year deadline of June 2013 means that Ventura must meet the 8-hour ozone standard in 2012, a full ozone season prior to the June 2013 deadline;

WHEREAS, on January 31, 2007, ARB staff circulated for public review the *Draft Air Resources Board's Proposed State Strategy for California's 2007 State Implementation Plan* (State Strategy), identifying proposed new measures, federal actions needed, and potential long-term concepts that will be evaluated and refined for the next rounds of SIPs;

WHEREAS, on April 26, 2007, ARB staff released a revised draft State Strategy that incorporated changes based on further staff analysis and public comments;

WHEREAS, emission reductions from the State Strategy are necessary, in whole or in part, to attain the 8-hour ozone standard in Ventura;

WHEREAS, on May 7, 2007, ARB staff released Appendices A through H of the State Strategy;

WHEREAS, in the May 7, 2007 version of Appendix H, ARB staff proposed to modify DPR's 1994 SIP commitment for Ventura by substituting 1.0 ton per day (tpd) of surplus ROG emission reductions from California's on-going mobile source emission control program for 1.0 tpd of the ROG emission reductions from pesticides;

WHEREAS, there will be no "backsliding" from the overall 1994 SIP commitment for ROG emission reductions in Ventura, because all the ROG emission reductions committed to in the 1994 SIP will still be achieved; what will change is the source of the emission reductions, in that a portion of the ROG emission reductions for Ventura will come for the ARB's mobile source emission control program instead of from pesticides;

WHEREAS, based on public comments received on Appendix H of the State Strategy, on August 13, 2007, ARB staff released for public review a revised Appendix H which proposed substituting 1.3 tpd of surplus ROG emission reductions from California's on-going mobile source emission control program in 2008 for 1.3 tpd of the ROG emission reduction commitment for pesticides in the 1994 Ozone SIP for Ventura;

WHEREAS, ARB staff is also proposing that this substitution be phased out over time such that the amount of surplus non-pesticide ROG emission reductions used to meet the 1994 SIP pesticide reduction commitment in Ventura would be reduced by approximately 1/3 tpd each year after 2008;

WHEREAS, this substitution would end by 2012, so that by 2012 all of the pesticide emission reductions committed to in the 1994 Ozone SIP will be achieved in Ventura;

WHEREAS, achieving the emission reduction commitment for pesticides by 2012 is consistent with, and will not interfere with, attaining the 8-hour ozone standard by 2012 in Ventura;

WHEREAS, section 110(l) of the Act and title 40 C.F.R. section 51.102 require that one or more public hearings, preceded by at least 30 days notice and opportunity for public review, must be conducted prior to the adoption and submittal to U.S. EPA of any SIP revision;

WHEREAS, the California Environmental Quality Act (CEQA) requires that no project which may have significant adverse environmental impacts may be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts, unless specific overriding considerations are identified which outweigh the potential adverse consequences of any unmitigated impacts;

WHEREAS, Board regulations provide that prior to taking final action on any proposal for which significant environmental issues have been raised, the decision maker shall approve a written response to each such issue;

WHEREAS, Appendix E of the State Strategy contains ARB's environmental analysis for the State Strategy, including the environmental analysis for the originally proposed SIP revision in Appendix H to modify the 1994 SIP commitment for pesticide emission reductions in Ventura;

WHEREAS, on August 13, 2007, ARB staff released for public review a revised environmental analysis for the revised proposal set forth in Appendix H;

WHEREAS, in consideration of the proposed SIP revision, the written and oral comments received, and the environmental analysis prepared by Board staff, the Board finds that:

The proposed SIP revision may have a significant short-term adverse environmental impact on air quality in Ventura, in that it may slow down slightly the improvement in ozone levels as compared to fully achieving by 2008 the pesticide emission reductions committed to in the 1994 1-hour Ozone SIP;

This adverse environmental impact on air quality will be partially mitigated by phasing out over time the proposed substitution of non-pesticide ROG emission reductions, so that all of the pesticide emission reductions committed to in the 1994 SIP will be achieved by 2012;

The proposed SIP revision will not interfere with attaining or maintaining attainment of the 1-hour Ozone standard, since Ventura has already attained the 1-hour standard and ROG emission levels in Ventura have declined since the standard was attained and will continue to decline with each passing year;

Because all of the pesticide emission reductions committed to in the 1994 SIP will be achieved in ventura by 2012, the proposed SIP revision will not interfere with attainment of the 8-hour ozone standard in Ventura by 2012 and will not result in any adverse environmental impacts after 2012;

To meet the 20 percent ROG emission reduction target from pesticides by 2008, DPR would need to impose a cap on the use of fumigants in Ventura that would not allow the full agricultural demand for fumigants to be met;

It is likely that growers would respond to the reduced availability of fumigants by decreasing fumigant application rates (thereby causing a decrease in crop yields) and/or by reducing the amount of acreage planted;

The combination of reduced crop yields and/or a reduction in acreage would likely result in significant adverse economic impacts on the agriculture industry in Ventura;

The proposed SIP revision will held reduce these economic impacts by allowing the reduction in fumigant availability to be phased in over time, thereby providing an opportunity for the agricultural industry to identify improved application techniques or other alternatives to reduce fumigant use, and for DPR to investigate additional pesticide control measures to achieve the remaining emission reductions in Ventura;

The considerations identified above override the short-term adverse environmental impact on air quality that may occur from the proposed SIP revision;

The Board has considered alternatives to the proposed SIP revision and has identified no feasible alternatives at this time which would reduce or eliminate any potential adverse environmental impacts, while at the same time ensuring that the benefits of the proposed SIP revision will be accomplished;

At this time there are no additional feasible mitigation measures that ARB can impose to lessen the potential adverse environmental impacts of the proposed SIP revision, while at the same time accomplishing the benefits of the SIP revision.

The proposed SIP revision meets the requirements of the Act and U.S. EPA regulations.

NOW, THEREFORE, BE IT RESOLVED, that subject to the Executive Officer's approval of written responses to environmental issues that have been raised, the Board is initiating steps toward the final adoption of the modification of the commitment for pesticide reductions as a SIP revision;

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to prepare and approve written responses to all significant environmental issues that have been raised, and then to either: (1) return the proposed SIP revision to the Board for further consideration if the Executive Officer determines that this is warranted, or (2) take final action to approve the SIP revision with such modifications as may be appropriate in light of the issues raised, including appropriate modifications to insure that all feasible mitigation measures or feasible alternatives that would substantially reduce any significant adverse environmental impacts have been incorporated into the final action;

BE IT FURTHER RESOLVED, that once final action has been taken by the Executive Officer to approve the SIP revision, the Board directs the Executive Officer to forward it to U.S. EPA for inclusion in the SIP to be effective, for purposes of federal law, upon approval by U.S. EPA.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to work with the U.S. EPA and take appropriate action to resolve any completeness or approvability issues that may arise regarding the SIP revision.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer, in consultation with DPR, the California Department of Food and Agriculture, the Ventura County Agricultural Commissioner, and the Ventura County Air Pollution Control District, to evaluate the impacts of the pesticide SIP revision in Ventura County and to report to the Board in 2010 with the results of this evaluation; to the extent feasible, the evaluation shall address the emission reductions from pesticides that have been achieved, the impacts on the amount of acreage under cultivation, the development and availability of new technologies to reduce fumigant use, the economic impacts on agriculture, and whether additional SIP revisions are appropriate.

BE IT FURTHER RESOLVED, that the Board certifies pursuant to 40 C.F.R. section 51.102 that the proposed SIP revision was adopted after notice and public hearing as required by 40 C.F.R. section 51.102, and directs the Executive Officer to submit the appropriate supporting documentation to U.S. EPA along with the approved SIP revision.

I hereby certify that the above is a true and correct copy of Resolution 07-42, as adopted by the Air Resources Board.

Lori Andreoni

Lori Andreoni, Clerk of the Board