State of California
AIR RESOURCES BOARD

Resolution 10-35

November 18, 2010

Agenda Item No: 10-10-2

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

WHEREAS, section 41650 of the Health and Safety Code requires ARB to approve the nonattainment area plan approved and adopted by a district as part of the SIP, unless the Board finds, after a public hearing, that the plan does not meet the requirements of the Act;

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

WHEREAS, the local air districts have primary responsibility for the control of air pollution from non-vehicular sources and for adopting control measures, rules, and regulations to attain the NAAQS within their boundaries pursuant to sections 39002, 40000, 40001, 40701, 40702, and 41650 of the Health and Safety Code;

WHEREAS, the United States Environmental Protection Agency (U.S. EPA) has published Control Technique Guidelines (CTG) that establish Reasonably Available Control Technology (RACT) limits for volatile organic compounds emissions from specific stationary source categories and establish various major source threshold limits for areas classified as nonattainment for the 1997 8-Hour Ozone NAAQS;

WHEREAS, U.S. EPA requires districts to review their rules for CTG and major non-CTG sources located in the district to determine if those rules meet RACT requirements and to update or adopt new rules if necessary;

WHEREAS, U.S. EPA requires districts not having a listed CTG or major non-CTG source, and consequently lacking a RACT rule for that CTG category, to make a negative declaration stating this;

WHEREAS, U.S. EPA requires nonattainment districts to submit new or amended rules, when applicable for a given district, for U.S. EPA approval by the due date for the attainment SIPs;

WHEREAS, the Imperial County Air Pollution Control District (District) is the air pollution control district responsible for carrying out these responsibilities in the Imperial County nonattainment area, which consists of all of Imperial County;

WHEREAS, On April 30, 2004, U.S. EPA designated Imperial County as nonattainment for the 1997 8-Hour Ozone NAAQS, and classified the county as "marginal" based on 2001 through 2003 air monitoring data with an attainment date of June 15, 2007;

WHEREAS, On February 13, 2008, U.S. EPA found that Imperial County failed to attain the 1997 8-Hour Ozone NAAQS by the June 15, 2007 deadline for marginal nonattainment areas; Imperial County was therefore reclassified as a moderate nonattainment for that standard;

WHEREAS, on December 3, 2009, U.S. EPA determined that the Imperial County nonattainment area attained the 1997 8-Hour Ozone NAAQS based upon certified ambient air monitoring data for the 2006–2008 monitoring period;

WHEREAS, due to U.S. EPA's finding of attainment, the 8-hour ozone SIP for the Imperial County nonattainment area is not required to include an attainment demonstration, demonstration of reasonable further progress, or contingency measures;

WHEREAS, federal law set forth in section 110(l) of the Act and Title 40, Code of Federal Regulations, section 51.102, requires 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, following a duly noticed public hearing on July 13, 2010, the Imperial County Air Pollution Control Board adopted the 2009 Ozone Plan to fulfill the applicable requirements of the Act for a moderate 8-hour ozone nonattainment area;

WHEREAS, following a duly noticed public hearing on July 13, 2010, the Imperial County Air Pollution Control Board adopted the 2009 RACT SIP to fulfill the applicable requirements of the Act for a moderate 8-hour ozone nonattainment area;
WHEREAS, on July 28, 2010 the District submitted the 2009 Ozone Plan and 2009 RACT SIP to ARB as proposed revisions to the California SIP;

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 alternative or mitigation measures are available to reduce or eliminate such impacts, unless specific overriding considerations are identified that outweigh the potential adverse consequences of any unmitigated impacts;

WHEREAS, to comply with CEQA, the District prepared and adopted Negative Declarations for the 2009 Ozone Plan and the RACT SIP, finding that these projects will not will lead to or result in significant adverse impacts;

WHEREAS, the Board finds that; (1) California's State and local air pollution control programs have together successfully reduced ozone concentrations leading to attainment of the 1997 8-Hour Ozone NAAQS in the Imperial County nonattainment area; (2) The District's 2009 Ozone Plan and 2009 RACT meet the requirements of the Clear Air Act; (3) The District's 2009 Ozone Plan and 2009 RACT SIP were adopted in compliance with CEQA requirements.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts the Imperial County 2009 Ozone Plan and 2009 RACT SIP as revisions to the California SIP.

BE IT FURTHER RESOLVED that the Board hereby directs the Executive Officer to submit the Imperial County 2009 Ozone Plan and 2009 RACT SIP with the appropriate supporting documentation to the U.S. EPA for approval as revisions to the California 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 District and U.S. EPA and take appropriate action to resolve any completeness or approvability issues that may arise regarding this SIP submission.

BE IT FURTHER RESOLVED that the Board authorizes the Executive Officer to include in the SIP submittal any technical corrections, clarifications, or additions that may be necessary to secure U.S. EPA approval.

BE IT FURTHER RESOLVED that the Board certifies pursuant to 40 CFR Section 51.102 that the Imperial County 2009 Ozone Plan and 2009 RACT SIP were adopted after notice and public hearing as required by 40 CFR Section 51.102.

I hereby certify that the above is a true and correct copy of Resolution 10-35, as adopted by the Air Resources Board.

Mary Alice Morency, Clerk of the Board