State of California
AIR RESOURCES BOARD

Resolution 11-28

September 22, 2011

Agenda Item No.: 11-7-1

WHEREAS, the Legislature in Health and Safety Code section 39602 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 (CAA; 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) as necessary to comply with the CAA;

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 CAA;

WHEREAS, 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 districts meet their responsibilities under the CAA pursuant to sections 39002, 39500, 39602, 40469, and 41650 of the Health and Safety Code;

WHEREAS, 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, 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, on October 15, 2008, the United States Environmental Protection Agency (U.S. EPA) promulgated a revised 3-month average lead NAAQS at a level of 0.15 micrograms per cubic meter;

WHEREAS, when U.S. EPA promulgates a NAAQS, CAA section 110(a)(1) requires each state to adopt and submit to the U.S. EPA Administrator, after reasonable notice and public hearing, an Infrastructure SIP that provides for implementation, maintenance, and enforcement of the NAAQS throughout the State;

WHEREAS, the CAA sections 110(a)(2)(A) through (M) set forth the specific elements a state must address in its Infrastructure SIP for the NAAQS;

WHEREAS, the Infrastructure SIP does not contain any proposed control strategy, but instead sets forth the State's and districts' authority and abilities to develop and implement a strategy for attaining and maintaining the NAAQS;

WHEREAS, many of the Infrastructure SIP requirements were addressed in California's comprehensive CAA section 110(a)(2) SIP, which was submitted in response to the CAA of 1970 and approved by U.S. EPA in 1979 in 40 Code of Federal Regulations (CFR) section 52.220;

WHEREAS, the Infrastructure SIP affirms ARB's commitment to comply with CAA section 110(a)(2) requirements, as well as responds to new elements required by the 1990 CAA Amendments and by U.S. EPA's 2008 promulgation of the revised lead NAAQS;

WHEREAS, the Infrastructure SIP for lead must be submitted to U.S. EPA by October 15, 2011, (three years after promulgation of the 2008 lead NAAQS);

WHEREAS, CAA section 110(l) and 40 CFR section 51.102 require one or more public hearings, preceded by at least 30-day notice and opportunity for public review, be conducted prior to the adoption and submittal to U.S. EPA of any SIP revision;

WHEREAS, on August 24, 2011, ARB staff circulated for public review a Staff Report entitled *Proposed State Implementation Plan Revision for Federal Lead Standard Infrastructure Requirements,* which includes a discussion of all elements of the Infrastructure SIP for lead as required under CAA section 110(a)(2); and

WHEREAS, the proposed Infrastructure SIP for lead demonstrates ARB and districts' authority and abilities to:

1. establish enforceable emission limits and other control measures and programs that effectively limit lead emissions and establish schedules and timetables for complying with the lead NAAQS;

2. monitor, compile, and analyze ambient lead air quality data and provide the data to U.S. EPA;

3. implement an enforcement program for control measures associated with implementing the lead NAAQS and a permit program regulating the construction and modification of major stationary lead sources;

4. prohibit lead emissions from contributing significantly to nonattainment of the lead NAAQS, interfering with maintenance of the lead NAAQS, or contributing to reduced visibility in another state;

5. provide assurances that the agencies have adequate personnel, funding, and legal authority to carry out provisions in the SIP, that a majority of their board members represent the public interest, and that the state can ensure that the districts can implement provisions in the SIP;

6. require owners and operators of stationary lead sources to install, maintain, and replace equipment for monitoring stationary source lead emissions and to provide periodic reports on these emissions;

7. halt lead emissions that cause or contribute to injury of public health or welfare and have adequate contingency plans to implement their authority;

8. revise their SIP when a NAAQS is revised, new attainment methods become available, or U.S. EPA determines that a current SIP is inadequate to attain the NAAQS or to comply with additional CAA requirements;

9. meet the applicable requirements of the CAA relating to consultation and public notification, and meet the requirements for PSD and visibility protection, as they apply to lead;

10. provide for using air quality models to predict the effect of lead emissions on ambient air quality, and submit the modeling data to U.S. EPA when requested;

11. assess and collect from owners and operators of stationary lead sources, fees sufficient to cover the reasonable costs of reviewing and acting upon a permit application and fees sufficient to cover the reasonable costs of implementing and enforcing the permit, if granted (owners or operators are also required to comply with the fee provisions of Title V sections 501 through 507 of the CAA); and

12. consult with and allow for participation by local political subdivisions affected by the Infrastructure SIP for lead.

WHEREAS, the Board finds that:

1. The proposed Infrastructure SIP for lead meets the applicable requirements established by the CAA and U.S. EPA regulations;

2. The Board certifies pursuant to 40 CFR section 51.102 that the proposed Infrastructure SIP for lead meets the notice and public hearing requirements specified in 40 CFR section 51.102; and

3. The proposed Infrastructure SIP for lead will not result in any significant adverse environmental impacts because it does not contain any control strategies and is simply a demonstration of ARB's and districts' authority and abilities to implement the lead NAAQS, therefore, the project is exempt from CEQA because there is no possibility that it will have a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts the Infrastructure SIP for lead, as set forth in Attachment A to this resolution, as a revision to the California State Implementation Plan.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to submit the adopted Infrastructure SIP for lead to U.S. EPA for approval, along with other supporting documentation, no later than October 15, 2011;

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

I hereby certify that the above is a true and correct copy of Resolution 11-28, as adopted by the Air Resources Board.

Mary Alice Morency, Clerk of the Board

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Identification of Attachments to the Board Resolution

Attachment A: Proposed State Implementation Plan Revision for Federal Lead Standard Infrastructure Requirements, Released August 24, 2011, including Appendix A, available at: http://www.arb.ca.gov/planning/sip/sip.htm.