State of California
AIR RESOURCES BOARD

Public Meeting to Consider California's Proposed State Plan for the Federal Municipal Solid Waste Landfill Emission Guidelines

Resolution 17-16

May 25, 2017

Agenda Item No.: 17-5-1

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

WHEREAS, section 111(d) of the Clean Air Act (42 U.S.C. § 7411(d)) provides for federal-state collaboration in securing emission reductions from existing sources;

WHEREAS, the United States Environmental Protection Agency (U.S. EPA) began regulating municipal solid waste (MSW) landfills under 111(d) of the Clean Air Act in 1996 after finding that landfills contribute significantly to air pollution, which may reasonably be anticipated to endanger public health and welfare (61 Fed. Reg. 9905-01 [Mar. 12, 1996]). U.S. EPA promulgated standards of performance for new MSW landfills (New Source Rules; 40 CFR Part 60, Subpart WWW) and Emission Guidelines for existing MSW landfills (40 CFR Part 60, Subpart Cc);

WHEREAS, new source rules are issued directly by U.S. EPA and the Emission Guidelines are implemented under section 111(d) of the Clean Air Act's state planning framework. Under this framework, states must submit compliance plans to show how they will implement U.S. EPA's requirements; U.S. EPA then considers whether to approve these plans and, if it does so, makes relevant aspects of these plans federally enforceable;

WHEREAS, U.S. EPA's regulations for general implementation of section 111(d) of the Clean Air Act are located in 40 CFR Part 60, Subpart B;

WHEREAS, pursuant to 40 CFR Part 60, Subpart B, section 60.24(g), State standards may be more stringent than federal standards;

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, section 40000, et seq. of the Health and Safety Code provides local air districts with primary authority to control air pollution from stationary sources;

WHEREAS, sections 38501, 38510, and 38560 of the Health and Safety Code provides ARB with primary authority to control sources of greenhouse gas emissions and the flexibility to coordinate with other agencies to implement and enforce air pollution control programs that regulate both greenhouse gases and criteria pollutants;

WHEREAS, on September 26, 1997, California submitted its State Plan to comply with 40 CFR Part 60, Subpart Cc, which became effective on November 22, 1999;

WHEREAS, those Emission Guidelines have been implemented and enforced through local air district landfill rules since their effective date;

WHEREAS, as a priority discrete early action measure under Assembly Bill 32 (Ch. 488, Stats. 2006) (AB 32), ARB adopted its Landfill Methane Regulation (LMR) (Cal. Code of Regs., tit. 17, § 95460 et seq.) in 2009, which became effective in 2010;

WHEREAS, the LMR has been implemented and enforced jointly by ARB and local air districts that have signed a memorandum of understanding since their effective dates;

WHEREAS, the LMR realizes an additional 91,193 metric tons of CO_2e per year of greenhouse gas reductions and 198 short tons per year of non-methane organic compounds (NMOC) beyond the reductions achieved under the Emission Guidelines;

WHEREAS, the LMR's substantial reductions of methane (a powerful climate-forcing pollutant), ozone-forming NMOC, and noxious/malodorous compounds have important public health benefits, particularly for environmental justice and disadvantaged communities affected by such emissions;

WHEREAS, on August 29, 2016, U.S. EPA published final New Source Performance Standards (40 CFR, Part 60, subpart XXX) for new sources, and Emission Guidelines (40 CFR, Part 60, Subpart Cf) for existing sources to reduced NMOC and methane emissions from MSW landfills;

WHEREAS, under 40 CFR, Part 60, Subpart Cf, section 60.30f(b), states must submit State Plans to U.S. EPA no later than May 30, 2017;

WHEREAS, on May 5, 2017, in response to an industry petition for reconsideration of the Emission Guidelines, U.S. EPA indicated it is staying implementation of the Emission Guidelines by 90 days and will be reconsidering specific aspects of the Emission Guidelines in a rulemaking;

WHEREAS, section 111(b) of the Clean Air Act and title 40 CFR Part 60, Subpart B, section 60.23 requires that one or more public hearings, preceded by at least 30 days

notice and an opportunity for public review must be conducted prior to adoption and submittal to U.S. EPA of any State Plan;

WHEREAS, beginning in November 2016, ARB staff communicated with stakeholders about the recently promulgated Emission Guidelines and formed a 111(d) Landfill Workgroup (or "workgroup") consisting of representatives from the local air districts, U.S. EPA, California Air Pollution Control Officer's Association (CAPCOA), and other interested parties;

WHEREAS, in January 2017, ARB staff held a public meeting to discuss California's strategy for compliance with the Emission Guidelines;

WHEREAS, on February 2017, ARB staff received comments from the January 2017 public meeting in support of ARB's efforts to seek "equivalency" with the Emission Guidelines using California's more stringent LMR as the compliance plan;

WHEREAS, on April 24, 2017, ARB staff provided notice of the May 25, 2017 public meeting with a copy of the proposed State Plan to the public, U.S. EPA, and local air districts;

WHEREAS, ARB is proposing to comply with the Emission Guidelines by submitting its LMR as the State's compliance plan;

WHEREAS, ARB recognizes the importance of reducing methane emissions from landfills and supports U.S. EPA's Emission Guidelines to assist in addressing the scientifically proven effects of climate change. ARB identified reducing methane as a priority discrete early action measure in its initial 2008 AB 32 Scoping Plan. ARB reaffirmed its commitment in its recently approved Short-Lived Climate Pollutant Reduction Strategy and 2017 Climate Change Scoping Plan Update;

WHEREAS, all of the MSW landfills that would have been required to install new controls under the Emission Guidelines have already installed controls under the LMR;

WHEREAS, the LMR's provisions are more stringent than the comparable provisions in the Emission Guidelines and, therefore, the LMR achieves greater emission reductions for both greenhouse gases and NMOC;

WHEREAS, in addition to achieving greater public health and climate benefits, submittal of the LMR as California's State Plan to comply with the Emission Guidelines will assist affected sources with compliance for both state and federal air quality requirements and could serve as a model for other states;

WHEREAS, U.S. EPA and ARB have long collaborated to design rigorous and flexible compliance frameworks and this partnership has resulted in significant human health and welfare protections and progress towards meeting our mutual climate change goals;

WHEREAS, ARB believes in the positive synergistic results that national and State governments can achieve when we tackle issues together in a cooperative fashion and looks forward to similar collaborations;

WHEREAS, ARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary for Natural Resources under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA; Cal. Code Regs., tit. 14, § 15251(d)), and ARB conducts its CEQA review according to this certified program (Cal. Code Regs., tit. 17, §§ 60000-60007);

WHEREAS, ARB conducted an environmental analysis under its certified regulatory program for the proposed State Plan and concluded the proposed State Plan is exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) ("common sense" exemption) because there is no possibility that the proposed activity may result in a significant adverse impact on the environment, as described in section III of the State Plan;

WHEREAS, Attachment A is the proposed State Plan titled *California State Plan for Municipal Solid Waste Landfills*; and

WHEREAS, the Board finds that:

The proposed State Plan meets the applicable Clean Air Act requirements;

The proposed State Plan meets the requirements of 40 CFR Part 60, Subpart B;

The proposed State Plan meets or is otherwise more stringent than the requirements of 40 CFR Part 60, Subpart Cf;

The proposed State Plan meets the statutory requirements in Health and Safety Code sections 38501, 38510, 38560, 39600, 39601, 39602, and 40000, et seq.;

The proposed State Plan is exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) because substantial evidence in the record shows with certainty that there is no possibility that the proposal may result in a significant adverse impact on the environment;

The proposed State Plan was developed in an open public process, in consultation with affected parties, through public workshops, individual meetings, and other outreach efforts, and these efforts are expected to continue; and

The proposed State Plan is consistent with ARB's environmental justice policies and does not disproportionately impact people of any race, culture, or income.

NOW, THEREFORE, BE IT RESOLVED that the Board directs the Executive Officer to determine if modifications to the proposed State Plan are appropriate. If modifications are appropriate, the Executive Officer shall incorporate those modifications. The Executive Officer shall take final action to adopt the proposed State Plan, with or without modifications, forward the proposed State Plan to U.S. EPA by May 30, 2017.

BE IT FURTHER RESOLVED that the Executive Officer, in furthering ARB's mission of reducing greenhouse gas emissions and protecting public health will submit California's State Plan by the original compliance deadline; ARB is committed to working with U.S. EPA during the rulemaking process to help ensure the revised Emission Guidelines continue to achieve the greatest climate and public health protections possible.

BE IT FURTHER RESOLVED that ARB certifies, pursuant to 40 CFR Part 60, Subpart B, section 60.23, that any hearing required by 40 CFR Part 60, Subpart B, section 60.23(c) was held in accordance with the notice required by 40 CFR Part 60, Subpart B, section 60.23(d).

I hereby certify that the above is a true and correct copy of Resolution 17-16 as adopted by the Air Resources Board.

Rana McReynolds

Rana McReynolds, Clerk of the Board

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May 25, 2017

Identification of Attachments to the Board Resolution

Attachment A: Proposed State Plan for Municipal Solid Waste Landfill Emission Guidelines