

State of California
AIR RESOURCES BOARD

Resolution No. 98-16
March 26, 1998

Agenda Item No.: 98-3-6

WHEREAS, for the past half century, Californians, individually, through state and local governments, and the business community, have worked, and continue to work, to clean the air we breathe;

WHEREAS, Californians desire healthful air that meets all federal and state clean air standards;

WHEREAS, section 107(a) of the federal Clean Air Act (the Act or CAA) assigns the states the primary responsibility for assuring air quality within the entire state;

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

WHEREAS, the ARB 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 (APCDs or AQMDs, respectively; collectively Districts) necessary to comply with the Act;

WHEREAS, President Clinton in "Reinventing Environmental Regulation (Clinton Administration Regulatory Reform Initiatives, March 16, 1995) called for flexibility in achieving environmental goals, avoiding "one size fits all" approaches, and sharing decision making by shifting more authority — and responsibility — from the federal government to states, tribes and local communities;

WHEREAS, the state and district clean air programs are the leading programs in the field of air quality improvement, reflecting, in the aggregate, the most stringent and most health-protective clean air standards and regulations in the nation, that also frequently serve as models for other states and the federal government;

WHEREAS, California businesses, state and local governments, and residents have invested billions of dollars to implement and comply with California's clean air programs;

WHEREAS, the 1990 Act Amendments enacted clean air programs heavily based on California's existing programs, and also provide the United States Environmental Protection Agency (U.S. EPA) the necessary implementation flexibility to integrate the Act's requirements into California's programs in a health-protective and cost-effective manner as long as they ultimately achieved the same degree of emission reductions as the federal regulations;

WHEREAS, the attainment of the federal health standards requires a partnership between the EPA, the Board, the Districts, the public, and California businesses — a partnership with cooperative and harmonious working relationships where issues can be resolved reasonably and in an expeditious manner that will result in health-protective and cost-effective regulations;

WHEREAS, over a three-year period, the Board, the Districts, and California businesses have expended significant resources in a good faith effort to work with the U.S. EPA to integrate the Act's requirements into California's longstanding comprehensive clean air programs, the Board finds:

1. Notwithstanding this good faith effort, and despite President Clinton's public statements and directives to the U.S. EPA to develop clean air programs that employ regulatory flexibility to the greatest possible degree consistent with maintaining full public health protection, the ARB's efforts to integrate the Act's requirements into California's clean air programs can only succeed if the U.S. EPA utilizes the regulatory flexibility provided under law, regulation, Presidential directive, and policy, thereby promoting California's progress toward clean air.
2. Without achieving additional environmental or health-protection benefits, the U.S. EPA has implemented federal Title III (toxics) and Title V (permits) requirements in a manner that has placed unnecessary and costly burdens on California.
3. While the Act requires the U.S. EPA to approve or disapprove all proposed revisions to the State Implementation Plan (SIP) within 18 months, U.S. EPA has failed for many years to act upon hundreds of rules adopted by the Districts, creating a "SIP gap," which creates significant regulatory uncertainty due to conflicting and inconsistent compliance requirements.
4. U.S. EPA must provide an enforceable mechanism recognizing the legitimate need for temporary operation of a source under a permit variance where unforeseen circumstances prevent compliance with certain permit conditions.

NOW, THEREFORE, BE IT RESOLVED, that the Board urges U.S. EPA and U.S. EPA Administrator Browner to recognize the significant and substantial air quality improvements achieved in California through state and local efforts and to acknowledge the benefits for U.S. EPA to integrate the Act's requirements into California's air quality programs in a cost-effective manner.

BE IT FURTHER RESOLVED, that the Board urges U.S. EPA to follow the requirements, time lines, and limits on its authority established under law, regulation, policy, Presidential directive, judicial decree, and other negotiated documents, such as the agreements made in Title V White Papers.

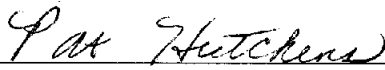
BE IT FURTHER RESOLVED, that the Board urges U.S. EPA to provide flexibility to California and local air districts to implement air requirements in a more integrated, cost-effective, and health-protective way, including changing its current policies and procedures to provide meaningful flexibility and authority to achieve emission reductions under Title III in a manner consistent with California's current program structure.

BE IT FURTHER RESOLVED, that the Board urges U.S. EPA to review and approve or disapprove, in a timely manner, state and local rules and other revisions into the SIPs, and requests for attainment/nonattainment status redesignation, as required by federal law.

BE IT FURTHER RESOLVED, that the Board urges U.S. EPA to provide an enforceable mechanism to recognize the legitimate need for temporary operation of a source under a variance where unforeseen circumstances prevent compliance with certain permit conditions, where such temporary relief will not interfere with reasonable further progress requirements and where the air district has made findings under state law including that the conditions are beyond the reasonable control of the operator.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to send this resolution to the U.S. EPA and to the Districts, and to continue coordination with U.S. EPA, the Districts, the public, and California businesses to attempt to resolve these outstanding issues in a timely manner.

I hereby certify that the above is a true and correct copy of Resolution 98-16 as adopted by the Air Resources Board.



Pat Hutchens, Clerk of the Board