

State of California  
AIR RESOURCES BOARD

**State Implementation Plan Credit from Mobile Agricultural Equipment**

Resolution 13-42

October 25, 2013

Agenda Item No.: 13-9-7

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (ARB or 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 39602 of Health and Safety Code authorizes ARB to coordinate the activities of the districts to comply with the Clean Air Act, and section 39602.5 provides ARB the general authority and obligation to adopt rules and measures necessary to execute the Board's powers and duties imposed by State law to attain National Ambient Air Quality Standards (NAAQS) in all areas by applicable attainment dates;

WHEREAS; the San Joaquin Valley is classified as extreme nonattainment for the 1997 ozone NAAQS, with an attainment deadline of 2023, and is also classified as extreme nonattainment for the more stringent 2008 ozone NAAQS, with a deadline of 2032;

WHEREAS, in the 2007 8-Hour Ozone State Implementation Plan (SIP) approved by the United States Environmental Protection Agency (U.S. EPA), ARB included a measure to clean up off-road mobile agricultural equipment in the San Joaquin Valley through a combination of regulation or voluntary incentive programs in order to accelerate air quality progress;

WHEREAS, since the adoption of the 2007 SIP, the agricultural industry in the San Joaquin Valley has worked cooperatively with the San Joaquin Valley Air Pollution Control District (SJVAPCD), ARB, and U.S. Department of Agriculture Natural Resources Conservation Service (NRCS) to secure funding for and participate in voluntary incentive programs that have reduced air pollution by accelerating the turnover of over 2,500 pieces of older, dirtier mobile agricultural equipment with the cleanest available technologies, representing over \$200 million in combined public and private funds expended;

WHEREAS, in 2010, a Statement of Principles, signed by ARB, U.S. EPA, NRCS, and SJVAPCD, established a general framework to ensure that emission reductions from

voluntary incentive programs that replace mobile agricultural equipment receive credit in SIPs;

WHEREAS, SJVAPCD's Governing Board adopted on June 20, 2013, Rule 9610 State Implementation Plan for Emission Reductions Generated Through Incentive Programs (Rule 9610) that provides administrative requirements for local, state, and federal voluntary incentive programs in the San Joaquin Valley to ensure that emission reductions will be eligible to receive SIP credit;

WHEREAS, the regulation for State Implementation Plan Credit from Mobile Agricultural Equipment proposed herein would complement Rule 9610 by ensuring that SIP creditable emission reductions from incentive-funded mobile agricultural equipment projects implemented following the Carl Moyer Program Guidelines are accounted for;

WHEREAS, the proposed regulation includes an opt-in provision that allows other air districts to receive similar SIP credit for incentive program mobile agricultural equipment projects implemented using the Carl Moyer Program Guidelines;

WHEREAS, the proposed regulation, if adopted, would be submitted to U.S. EPA to implement the Statement of Principles, and to provide an enforceable process for determining the eligibility of emission reductions from mobile agricultural equipment incentive projects for SIP credit;

WHEREAS, U.S. EPA approval of the regulation as part of the California SIP will provide assurance that SIP credit can be taken for incentive-funded mobile agricultural equipment emission reductions used to demonstrate attainment of NAAQS;

WHEREAS, the ARB Carl Moyer Air Quality Standards Attainment Program (Carl Moyer Program) establishes a standard that has served as a model for many other voluntary incentive programs, including the SJVAPCD's incentive programs and the NRCS Environmental Quality Incentive Program;

WHEREAS, since 1998, the Carl Moyer Program has funded the extra capital cost of cleaner-than-required vehicles and equipment, including mobile agricultural equipment, to help achieve air pollution reductions that are surplus, quantifiable, enforceable, and permanent;

WHEREAS, incentive programs implemented using Carl Moyer Program Guidelines reduce emissions of oxides of nitrogen (NOx), reactive organic gases, and particulate matter;

WHEREAS, the Board is committed to evaluating community impacts of proposed regulations, including environmental justice concerns;

WHEREAS, the California Environmental Quality Act (CEQA) requires that a public agency not approve a project as proposed if there are feasible alternatives or feasible

mitigation measures available which would substantially lessen the significant environmental impacts of such a project; in the event that specific economic, social, or other conditions make infeasible the alternatives or mitigation measures, the project may be approved if it is determined that any remaining unavoidable significant impacts are acceptable due to overriding considerations;

WHEREAS, Public Resources Code section 21080.5 allows public agencies with regulatory programs to prepare a plan or other written document in lieu of an environmental impact report or negative declaration once the Secretary of the Resources Agency has certified the regulatory program;

WHEREAS, that portion of the ARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary of Resources Agency (CEQA Guidelines, section 15251(d));

WHEREAS, in accordance with ARB's certified regulatory program at title 17, California Code of Regulations (CCR), section 60005 (b), and the policy and substantive requirements of CEQA, as part of the Initial Statement of Reasons (ISOR), ARB staff prepared an assessment of the potential for significant adverse and beneficial environmental impacts associated with the proposed State Implementation Plan Credit from Mobile Agricultural Equipment regulation;

WHEREAS, the environmental analysis, circulated with the ISOR for 45 days, concluded the proposed amendments would result in no adverse impacts to the environment;

WHEREAS, no comments were received during the 45-day comment period that raise significant environmental issues, therefore, no approval of written responses to such comments is required per title 17, California Code of Regulations, section 60007;

WHEREAS, the Board has considered the impact of the proposed regulatory action on the economy of the State and the potential for adverse economic impacts on California business enterprises and individuals;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of Chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code;

WHEREAS, the Board finds that:

Under the federal Clean Air Act, the U.S. EPA has established NAAQS for pollutants considered harmful to public health, including ozone, and States that exceed the NAAQS are required by federal law to develop SIPs describing how they will attain the standards by certain deadlines;

Many areas of California, including the San Joaquin Valley air basin, are in non-attainment for ozone, for which NO<sub>x</sub> is a precursor;

Emissions from mobile agricultural equipment are among a number of significant sources of air pollution in the San Joaquin Valley and reducing emissions from all sources is necessary to meet the NAAQS;

The proposed regulation meets the 2007 SIP commitment by establishing an administrative mechanism for incentive-funded mobile agricultural equipment projects that are implemented using the Carl Moyer Program Guidelines to receive credit towards SIP requirements for emission reductions achieved in the San Joaquin Valley;

The proposed regulation complements SJVAPCD's Rule 9610 to ensure that emission reductions achieved through local, state, and federal voluntary incentive programs for mobile agricultural equipment in the San Joaquin Valley are eligible to receive SIP credit;

The proposed regulation includes an opt-in provision that allows other air districts to receive similar SIP credit for incentive program mobile agricultural equipment projects implemented using the Carl Moyer Program Guidelines;

The economic and fiscal impacts of the proposed regulation have been analyzed as required by California law, and have been determined to be negligible; the conclusions and supporting documentation for this analysis are set forth in the ISOR, as supplemented by staff's presentation at the hearing of this item;

No reasonable alternative considered, or that has otherwise been identified and brought to the attention of ARB, would be more effective at carrying out the purpose for which the amendments are proposed, or would be as effective and less burdensome to affected private persons and businesses than the proposed regulation;

On the basis of the whole record, including the environmental analysis included in the ISOR, there is no substantial evidence that the proposed *State Implementation Plan Credit from Mobile Agricultural Equipment*, will result in any significant adverse impacts on the environment; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves for adoption section 2428, title 13, CCR, as set forth in Attachment A.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt section 2428, Title 13, as set forth in Attachment A, with the modifications set forth in

Attachment B after making the modified regulatory language and additional supporting documents and information available for public comment for a period of 15 days, provided the modifications do not alter the conclusion of the environmental analysis and no comments raising significant environmental issues are received, and the Executive Officer considers written comments regarding the modifications and additional supporting documents and information submitted during this period and makes modifications as may be appropriate in light of the comments received, and he shall present the regulations to the Board for further consideration if he determines that this is warranted.

BE IT FURTHER RESOLVED that if the Executive Officer receives comments raising significant environmental issues, or if it is determined that any 15-day modifications to the regulation affect the conclusion of the environmental analysis, the Executive Officer shall prepare and circulate any additional environmental analysis required by the requirements of ARB's regulations at title 17, California Code of Regulations, sections 60001-60007, and prepare written responses to any comments received raising significant environmental issues to present to the Board for its consideration for approval along with the proposed Final Regulation Order.

BE IT FURTHER RESOLVED that following approval of the regulation by the Office of Administrative Law, the Board directs the Executive Officer to submit the regulation to the U.S. EPA for inclusion in the SIP.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to include in the SIP revision any additional documentation identified as necessary for approval under the federal Clean Air Act and U.S. EPA regulations, and to work with the U.S. EPA to ensure that the regulation is approved as a SIP revision.

I hereby certify that the above is a true and correct copy of Resolution 13-42, as adopted by the Air Resources Board.

/s/

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Tracy Jensen, Clerk of the Board

Resolution 13-42

**October 25, 2013**

**Identification of Attachments to the Board Resolution**

**Attachment A:** Proposed Regulation for *State Implementation Plan Credit from Mobile Agricultural Equipment* title 13, California Code of Regulations, section 2428, as set forth in Appendix A to the Initial Statement of Reasons, released September 4, 2013.

**Attachment B:** Summary of Proposed Modifications to the Original Proposal (Presented at the October 25, 2013 ARB hearing)