

PROPOSED

State of California
AIR RESOURCES BOARD

**SUBMISSION OF THE 2013 AMENDMENTS TO THE CARGO TANK VAPOR
RECOVERY REGULATION INTO THE CALIFORNIA
STATE IMPLEMENTATION PLAN**

Resolution 18-23

June 28, 2018

Agenda Item No.: 18-5-1

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

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize CARB 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, CARB is responsible for preparing the State Implementation Plan (SIP) for attaining and maintaining the national ambient air quality standards (NAAQS) as required by the federal Clean Air Act (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, 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, CARB 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 the districts meet their responsibilities under the Act pursuant to sections 39002, 39500, 39602, 40469, and 41650 of the Health and Safety Code;

WHEREAS, section 41954 of the Health and Safety Code requires the Board to adopt procedures, including performance standards, for determining the compliance of any

system designed for the control of gasoline vapor emissions during gasoline marketing operations;

WHEREAS, section 41962 of the Health and Safety Code requires the Board to adopt procedures for determining the compliance of any system designed for the control of gasoline vapor emissions from cargo tanks that deliver fuel from bulk storage facilities to Gasoline Dispensing Facilities;

WHEREAS, the Board on June 29, 1995, repealed title 17, California Code of Regulations (CCR), section 94004, which incorporated by reference CARB's Method 2-5 Certification and Test Procedures for Vapor Recovery Systems of Gasoline Delivery Tanks;

WHEREAS, on July 25, 2013, the Board adopted enhanced vapor recovery regulations for certification and test of vapor recovery systems installed on cargo tanks, as set forth in title 17, CCR, section 94014, and the documents incorporated by reference therein (2013 Cargo Tank Amendments);

WHEREAS, the Office of Administrative Law, on December 10, 2014, approved title 17, CCR, section 94014, and the documents incorporated by reference therein;

WHEREAS, the 2013 Cargo Tank Amendments were not originally noticed as a submission to the California SIP at their adoption and the Board action on the 2013 Cargo Tank Amendments did not include direction to submit changes to title 17, CCR, sections 94004 and 94014 into the California SIP;

WHEREAS, section 172(c)(1) of the Act requires implementation of Reasonably Available Control Technology (RACT) for ozone nonattainment areas classified as moderate or above;

WHEREAS, as part of assessing RACT, states are required to review United States Environmental Protection Agency (U.S. EPA) published Control Techniques Guidelines (CTG) that establish RACT limits for specific categories of sources;

WHEREAS, California is required to satisfy the level of control outlined in U.S. EPA CTG entitled, *Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems*, to meet RACT requirements;

WHEREAS, the repeal and amendment to title 17, CCR, sections 94004 and 94014, respectively, is required to satisfy U.S. EPA CTG for the purpose of meeting RACT requirements;

WHEREAS, CARB needs to submit into the California SIP the changes to title 17, CCR, sections 94004 and 94014 (Cargo Tank SIP Submittal) to meet RACT requirements;

WHEREAS, section 110(l) of the Act and title 40 Code of Federal Regulations (CFR) section 51.102 requires that one or more public hearings, preceded by at least a 30-day notice and opportunity for public review, must be conducted prior to the adoption and submittal to U.S. EPA of any SIP revision;

WHEREAS, as required by the Act, the Cargo Tank SIP Submittal was made available on May 25, 2018, for public review, at least 30 days prior to the hearing date;

WHEREAS, CARB'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; California Code of Regulations, title 14, section 15251(d)), and ARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60007);

WHEREAS, staff has determined that the proposed action is exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) ("common sense" exemption) because the record evidence shows with certainty that there is no possibility that the proposed activity may result in a significant adverse impact on the environment, as described in the Environmental Analysis section of the Report; and

WHEREAS, the Board finds that:

1. The Cargo Tank SIP Submittal and other appropriate supporting documentation provides the necessary documentation for U.S. EPA to approve it as an amendment to the California SIP;
2. The Cargo Tank SIP Submittal meets the applicable requirements established by the Act; and
3. The Cargo Tank SIP Submittal 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.

NOW, THEREFORE, BE IT RESOLVED that the Board directs staff to submit into the California SIP the 2013 Cargo Tank Amendments and other appropriate supporting documentation to U.S. EPA for inclusion in the SIP.

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 or approvability issues that may arise regarding the 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 hereby certifies pursuant to 40 CFR, section, 51.102, that the Cargo Tank SIP Submittal was adopted after notice and public hearing as required by 40 CFR, section 51.