

RESOLUTION NO. 22-39

A Resolution of the South Coast AQMD Governing Board certifying the Final Program Environmental Impact Report (Program EIR) for the 2022 Air Quality Management Plan (AQMP or Plan).

A Resolution of the South Coast AQMD Governing Board adopting the 2022 AQMP, and directing staff to forward the 2022 AQMP to the CARB for approval and submission to the U.S. EPA for inclusion in the State Implementation Plan (SIP).

WHEREAS, the South Coast AQMD Governing Board finds and determines that the 2022 AQMP is considered a “project” as defined by the California Environmental Quality Act (CEQA); and

WHEREAS, the South Coast AQMD Governing Board has determined that the requirements for a Program EIR have been triggered pursuant to CEQA Guidelines Section 15168, and the Program EIR concluded that the proposed project would have the potential to generate significant and unavoidable adverse environmental impacts for the topics of air quality during construction, energy, hazards and hazardous materials, hydrology and water quality, noise, and solid and hazardous waste even after mitigation measures are applied; and

WHEREAS, the Draft Program EIR was circulated for a 46-day public review and comment period from September 16, 2022 to November 1, 2022 and six comment letters were received; and

WHEREAS, the Draft Program EIR has been revised to include the comment letters received on the Draft Program EIR and the responses, so that it is now a Final Program EIR; and

WHEREAS, it is necessary that the South Coast AQMD Governing Board review the Final Program EIR prior to its certification, to determine that it provides adequate information on the potential adverse environmental impacts that may occur as a result of adopting the proposed project, including the responses to the comment letters received relative to the Draft Program EIR; and

WHEREAS, pursuant to CEQA Guidelines Sections 15126.4 and 15126.6, significant adverse impacts were identified such that mitigation measures and an alternatives analysis are required for project approval; thus, a Mitigation Monitoring and Reporting Plan pursuant to Public Resources Code Section 21081.6 and CEQA Guidelines Section 15097, has been prepared; and

WHEREAS, no feasible mitigation measures were identified that would reduce or eliminate all of the identified significant adverse impacts to less than significant levels; and

WHEREAS, it is necessary that the South Coast AQMD prepare Findings pursuant to CEQA Guidelines Section 15091, and a Statement of Overriding Considerations pursuant to CEQA Guidelines Section 15093, regarding potentially significant adverse environmental impacts that cannot be mitigated to less than significant levels; and

WHEREAS, Findings, a Statement of Overriding Considerations, and a Mitigation, Monitoring, and Reporting Plan have been prepared and are included in Attachment 1 to this Resolution (labeled as Attachment B in the Board letter), which is attached and incorporated herein by reference; and

WHEREAS, the South Coast AQMD Governing Board voting to adopt the 2022 AQMP, has reviewed and considered the information contained in the Final Program EIR, including responses to comments, the Mitigation, Monitoring, and Reporting Plan, the Findings, the Statement of Overriding Considerations, and all other supporting documentation, prior to its certification; and has determined that the Final Program EIR, including responses to comments received, has been completed in compliance with CEQA; and

WHEREAS, the 2022 AQMP and supporting documentation, including but not limited to, the Final Program EIR and the Socioeconomic Report for the 2022 AQMP, were presented to the South Coast AQMD Governing Board and the South Coast AQMD Governing Board has reviewed and considered this information, as well as has taken and considered staff testimony and public comment prior to approving the project; and

WHEREAS, the Final Program EIR reflects the independent judgment of the South Coast AQMD; and

WHEREAS, the South Coast AQMD Governing Board finds and determines that all changes made in the Final Program EIR after the public notice of availability of the Draft Program EIR, were not substantial revisions and do not constitute significant new information within the meaning of CEQA Guidelines Section 15088.5, because no new or substantially increased significant effects were identified, and no new project conditions or mitigation measures were added, and all changes merely clarify, amplify, or make insignificant modifications to the Draft Program EIR, and recirculation is therefore not required; and

WHEREAS, the U.S. EPA promulgated the 8-hour ozone national ambient air quality standard (NAAQS or standard) of 70 parts per billion (ppb) in 2015, followed up by implementation rules which set forth the classification and planning requirements for nonattainment area SIPs; and

WHEREAS, effective August 3, 2018, the U.S. EPA designated the South Coast Air Basin as an “extreme” nonattainment area for the 2015 8-hour ozone standard with an attainment date of August 3, 2038 and the Coachella Valley, the desert portion of Riverside County in the Salton Sea Air Basin, as a “severe-15” nonattainment area with an attainment date of August 3, 2033; and

WHEREAS, the U.S. EPA finalized the “Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements” on February 4, 2019 (83 FR 62998), addressing a range of nonattainment area SIP requirements for the 2015 ozone standard, and serving as a guideline for the development of the 2022 AQMP; and

WHEREAS, the federal Clean Air Act (CAA) requires SIPs for regions not in attainment with the 2015 ozone NAAQS to be submitted no later than four years after the nonattainment area designation, whereby, a SIP for the South Coast Air Basin and Coachella Valley should be submitted for the attainment of the 2015 8-hour ozone standard. Otherwise, sanctions may be imposed 18 months after a finding of failure to submit; and

WHEREAS, the 2022 AQMP will be submitted for inclusion in the SIP; and

WHEREAS, the South Coast AQMD is unable to specify an attainment date for the state ambient air quality standard for ozone. However, the 2022 AQMP, in conjunction with earlier AQMPs, contains every feasible control strategy and measure to ensure progress toward attainment and the AQMP will be reviewed and revised to ensure that progress toward all standards is maintained; and

WHEREAS, the 2022 AQMP addresses the federal CAA requirements, including the implementation of reasonably available control measures (RACM), reasonable further progress (RFP) demonstration, a comprehensive emissions inventory, control strategies, attainment demonstration, contingency measures, a transportation conformity budget, and other extreme nonattainment area SIP requirements and will be combined with the portions of the Plan provided by the California Air Resources Board (CARB), and the Southern California Association of Governments (SCAG), and will be forwarded to CARB for any necessary additions and submission to U.S. EPA; and

WHEREAS, the 2022 AQMP addresses CCAA requirements including plan effectiveness, emission reductions, population exposure, carrying capacity estimation for the ozone California Ambient Air Quality Standards (CAAQS), and cost-effectiveness elements; and

WHEREAS, as part of the preparation of an AQMP, in conjunction or coordination with public health agencies, such as CARB and the Office of Environmental Health Hazard Assessment (OEHHA), a report has been prepared and peer-reviewed by the Advisory Council on the health impacts of particulate matter and ozone air pollution in the South Coast Air Basin pursuant to Health and Safety Code Section 40471(b), which has been included as part of Appendix I (Health Effects) of the 2022 AQMP; and

WHEREAS, the 2022 AQMP demonstrates attainment of the 2015 8-hour ozone NAAQS in the South Coast Air Basin and Coachella Valley by the 2037 deadline; and

WHEREAS, significant emission reductions of NO_x must be achieved to attain the 2015 8-hour ozone standard by 2037; and

WHEREAS, U.S. EPA has primary responsibility to control emissions from federally regulated sources including aircraft, locomotives, ocean-going vessels, international and out-of-state trucks, and pre-empted off-road equipment; and

WHEREAS, emission sources subject to the U.S. EPA's regulatory authority are significant and growing, from 28 percent in 2018 to 46 percent in 2037 of the Basin total baseline NO_x emissions; and

WHEREAS, the growing contribution of federal sources reflects aggressive regulatory actions by South Coast AQMD and CARB, while only modest actions have been taken by the U.S. EPA such as emission standards for heavy-duty trucks have not been revised by U.S. EPA in over 20 years; and

WHEREAS, NO_x emissions from federally regulated sources alone will exceed the amount of NO_x emissions allowed for attainment by 41 percent in 2037 and without substantial action by the federal government, the region will be unable to attain the standard; and

WHEREAS, the only viable pathway to achieve the required NO_x reductions is through widespread adoption of zero emission technologies across all stationary and mobile sources; and

WHEREAS, the needed transition to zero emission technologies will require significant public and private investments and continued innovation and advancement of technologies; and

WHEREAS, the 2022 AQMP prioritizes maximizing emission reductions from stationary and mobile sources utilizing zero emission technologies wherever technologically and commercially feasible, and advanced low NOx technologies where zero emission technologies are not yet feasible; and

WHEREAS, residential and commercial building measures are aligned with California's climate goals to reduce greenhouse gas emissions, Title 24 energy efficiency requirements, local governments initiatives and regulations for decarbonization, and CARB's residential and commercial building measures included in the 2022 State SIP Strategy; and

WHEREAS, the 2022 AQMP contains federal CAA Section 182(e)(5) "black box" measures, utilizing the flexibility provided by the federal CAA via relying on future cleaner technology which is not yet identified or available at the time of Plan development; and

WHEREAS, the 2022 AQMP includes an expeditious adoption and implementation schedule of control measures in a cost-effective, feasible, and targeted fashion; and

WHEREAS, South Coast AQMD recognizes the infrastructure challenges to accommodate zero emission technologies; and

WHEREAS, South Coast AQMD sets policies and requirements that are performance-based. Such standards do not prescribe specific technologies or fuel usage provided the required level of emission control is achieved. The 2022 AQMP intends to continue this policy; and

WHEREAS, South Coast AQMD staff is committed to actively engage with the California Energy Commission, California Public Utilities Commission, CARB, local utilities, fleets and other stakeholders to help address the challenges related to grid capacity and reliability in the region to support deployment of zero emission technologies; and

WHEREAS, to address challenges and potential problems and to accommodate future zero emission infrastructure needs, there will need to be far more planning at the state level from the agencies involved in energy distribution, the local utilities, local governments and land use planning agencies; and

WHEREAS, the impacts of air pollution are not distributed equitably throughout the South Coast AQMD jurisdiction, with some communities bearing much higher air pollution burdens, and measures associated with the 2022 AQMP will help reduce air pollution in disproportionately impacted areas; and

WHEREAS, South Coast AQMD will develop a contingency measure in coordination with CARB, when U.S. EPA's guidance becomes available and submit the measure to U.S. EPA via CARB for the inclusion of SIP; and

WHEREAS, the Draft Socioeconomic Report for the 2022 AQMP was prepared and released for public review and comment; and

WHEREAS, the Draft Socioeconomic Report for the 2022 AQMP has been revised based on public comments received on the Draft such that it is now the Socioeconomic Report for the 2022 AQMP; and

WHEREAS, the South Coast AQMD held five residential and commercial buildings working group meetings, seventeen mobile source working group meetings addressing aircraft, ocean-going vessels, construction and industrial equipment, heavy-duty trucks, and zero emission infrastructure; a control measures workshop in November 2021, three regional public workshops/CEQA Scoping meetings on the Draft 2022 AQMP in May 2022; five regional public hearings throughout the four-county region and Coachella Valley in October 2022; ten AQMP Advisory Group meetings; seven Scientific, Technical, and Modeling Peer Review Advisory Group meetings; and two Advisory Council meetings over a three-year period; and one adoption public hearing in December 2022 pursuant to Health and Safety Code Section 40466; and

WHEREAS, pursuant to Health and Safety Code Section 40471(b), public testimony and input were taken relative to Appendix I (Health Effects) during the 2022 AQMP regional public hearings conducted in October 2022 and the public hearing on December 2, 2022; and

WHEREAS, the South Coast AQMD Governing Board has actively considered the Socioeconomic Report for the 2022 AQMP and has made a good faith effort to minimize such impacts; and

WHEREAS, a public hearing has been properly noticed in accordance with all provisions of Health and Safety Code Section 40466 and 40 Code of Federal Regulations Part 51, Section 51.102; and

WHEREAS, the South Coast AQMD Governing Board has held a public hearing in accordance with all provisions of state and federal law; and

WHEREAS, the Deputy Executive Officer for the Planning, Rule Development, and Implementation Division overseeing the development for the 2022 AQMP is the custodian of the documents or other materials which constitute the record of proceedings upon which the adoption of this proposed project is based, which are located at the South Coast Air Quality Management District, 21865 Copley Drive, Diamond Bar, California; and

NOW, THEREFORE BE IT RESOLVED, that the South Coast AQMD Governing Board has considered the Final Program EIR for the 2022 AQMP, together with all comments received during the public review period, and, on the basis of the whole record before it, the South Coast AQMD Governing Board: 1) finds that the Final Program EIR, including the responses to the comment letters, was completed in compliance with CEQA, 2) finds that the Final Program EIR and all supporting documents were presented to the South Coast AQMD Governing Board, whose members exercised their independent judgment and reviewed, considered, and approved the information therein prior to acting on the 2022 AQMP, and 3) certifies the Final Program EIR; and

BE IT FURTHER RESOLVED, that the South Coast AQMD Governing Board does hereby adopt Findings pursuant to CEQA Guidelines Section 15091, a Statement of Overriding Considerations pursuant to CEQA Guidelines Section 15093, and a Mitigation, Monitoring, and Reporting Plan pursuant to Public Resources Code Section 21081.6 and CEQA Guidelines Section 15097, as required by CEQA and which are included as Attachment B (Attachment 1 to the Resolution) and incorporated herein by reference; and

BE IT FURTHER RESOLVED, that the South Coast AQMD will develop, adopt, submit, and implement the control measures in Tables 4-2 and 4-3 of Chapter 4 in the 2022 AQMP (Main Document) as expeditiously as possible in order to meet or exceed the commitments identified in Table 4-19 of the 2022 AQMP (Main Document) to attain the 2015 8-hour ozone standard, and to substitute any other measures as necessary to make up any emission reduction shortfall; and

BE IT FURTHER RESOLVED, the South Coast AQMD commits to update AQMP emissions inventories, baseline assumptions, and control measures as needed to ensure that the best available data is utilized and attainment needs for the 2015 8-hour ozone standard are met; and

BE IT FURTHER RESOLVED, that the South Coast AQMD Governing Board hereby requests that CARB commit to submitting contingency measures as required by Section 182(e)(5) as necessary to meet the requirements for demonstrating attainment of the 8-hour ozone standard; and

BE IT FURTHER RESOLVED, that the South Coast Air Quality Management District Board directs the staff to work with stakeholders to develop concepts for a potential funding program to incentivize the installation and operation of zero emission technology, as well as technology demonstration projects, for stationary sources; and

BE IT FURTHER RESOLVED, South Coast AQMD Governing Board directs staff to continue to actively engage with the California Energy Commission, California Public Utilities Commission, CARB, local utilities, fleets and other stakeholders to help

address the challenges related to grid capacity, infrastructure, and reliability in the region to support deployment of zero emission technologies; and

BE IT FURTHER RESOLVED, South Coast AQMD Governing Board directs staff to seek opportunities to provide incentives to deploy zero emission technologies to environmental justice and disadvantaged communities; and

BE IT FURTHER RESOLVED, that the South Coast AQMD Governing Board directs staff to prioritize funding in Environmental Justice areas and disadvantaged communities as defined in Chapter 8 of the AQMP and as analyzed in Chapter 6 of the Socioeconomic Report of the 2022 AQMP, by the agency providing the funds; and

BE IT FURTHER RESOLVED, if U.S. EPA determines that information submitted by the South Coast AQMD is insufficient to demonstrate that the required emission reductions will occur on schedule and are not approvable under applicable provisions of the federal CAA, the South Coast AQMD will develop substitute rules and/or measures, as required by the federal CAA, that will achieve the 2037 committed emission reductions addressing the shortfall as expeditiously as practicable, but no later than December 2037; and

BE IT FURTHER RESOLVED, that the Executive Officer is hereby directed to finalize the 2022 AQMP including the main document, appendices, and related documents as adopted at the December 2, 2022 public hearing; and

BE IT FURTHER RESOLVED, that the South Coast AQMD Governing Board, whose members reviewed, considered and approved the information contained in the documents listed herein, adopts the 2022 AQMP dated December 2, 2022 consisting of the document entitled 2022 AQMP as amended by the final changes, if applicable, set forth by the South Coast AQMD Governing Board and the associated documents listed in Attachment 1 to this Resolution; and

BE IT FURTHER RESOLVED, the Executive Officer is hereby directed to work with CARB and the U.S. EPA to ensure expeditious approval of the 2022 AQMP for attainment of the 2015 8-hour ozone standard; and

BE IT FURTHER RESOLVED, that the 2022 AQMP serves to demonstrate attainment of the 2015 8-hour ozone standard for South Coast Air Basin and Coachella Valley with respect to emissions inventories and includes, RACM demonstration, attainment demonstration, RFP demonstration, transportation conformity budget, transportation control measures, bump-up request for Coachella Valley to extreme non-attainment status, and any other required nonattainment area SIP elements; and

BE IT FURTHER RESOLVED, that among nonattainment area SIP elements, emissions statements, Reasonably Available Control Technology (RACT) demonstration, and Vehicle Miles Travelled (VMT) offset demonstration were submitted to U.S. EPA in

2020; New Source Review and clean fuels requirements for boilers and fleet were submitted to U.S. EPA in 2021 for the inclusion into 2015 8-hour ozone nonattainment area SIP; and

BE IT FURTHER RESOLVED, that the Executive Officer is hereby directed to forward a copy of this Resolution, the 2022 AQMP, and its appendices as amended by the final changes, if applicable, to CARB, and to request that these documents be submitted to the U.S. EPA for approval as part of the California SIP. In addition, the Executive Officer is directed to forward comments on the 2022 AQMP and responses to comments, public notices, and any other information requested by the CARB and/or U.S. EPA for informational purposes; and

BE IT FURTHER RESOLVED, that the South Coast AQMD Governing Board directs the Executive Officer to work with CARB and the U.S. EPA and take appropriate action to resolve any completeness or approvability issues that may arise regarding the SIP submission; and

BE IT FURTHER RESOLVED, that the South Coast AQMD Governing Board authorizes the Executive Officer to include in the SIP submittal or supplement(s) to the SIP any technical updates, corrections, clarifications, or additional information that may be necessary to secure U.S. EPA approval.

AYES: Benoit, Cacciotti, Delgado, Kracov, Kuehl, McCallon,
Padilla-Campos, Perez, and Raman

NOES: Rodriguez and Rutherford

ABSENT: Do and Richardson

DATE: December 2, 2022 Faye Thomas
Faye Thomas, Clerk of the Boards