

Title VI of the Civil Rights Act of 1964: CARB Supplemental Information for EPA in Support of 15 ug/m³ Annual PM_{2.5} Standard

Title VI of the U.S. Civil Rights Act of 1964 (Title VI) provides that no person in the United States shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.¹ Other relevant federal laws prohibit discrimination in the use of federal funds based on disability, sex and age.² As a recipient of federal funds and assistance from the U.S. Environmental Protection Agency (U.S. EPA), the California Air Resources Board (CARB or Board) must ensure it complies with Title VI and U.S. EPA's Title VI implementation regulations³ in its relevant programs and policies.

The State Implementation Plan (SIP) Revision for the 15 µg/m³ Annual PM_{2.5} Standard for the San Joaquin Valley (15 µg/m³ SIP Revision)⁴ amended the 15 microgram per cubic meter (µg/m³) annual PM_{2.5} standard portion of the 2018 Plan for the 1997, 2006, and 2012 PM_{2.5} Standards (2018 PM_{2.5} Plan).⁵ The 2018 PM_{2.5} Plan relied on CARB emission reduction measures and commitments contained in the San Joaquin Valley Supplement to the 2016 State Strategy for the State Implementation Plan (Valley State SIP Strategy).⁶ The 2018 PM_{2.5} Plan included the commitments and measures from the 2016 State Strategy for the State Implementation Plan (2016 State SIP Strategy)⁷ specific to the San Joaquin Valley. Each of these documents has been submitted into the California SIP. In developing the robust suite of control measures contained in the Valley State SIP Strategy, 2018 PM_{2.5} Plan, and

¹ 42 U.S.C. section 2000d to 2000d-7.

² Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 et seq.; Age Discrimination Act of 1975, 42 U.S.C. §§ 6101 et seq.; and Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 § 13, 86 Stat. 903 (codified as amended at 33 U.S.C. § 1251 (1972)),

³ 40 C.F.R. Part 7; § 7.15.

⁴ CARB. SIP Revision for the 15 µg/m³ Annual PM_{2.5} Standard for the San Joaquin Valley. <https://ww2.arb.ca.gov/resources/documents/2018-san-joaquin-valley-pm25-plan>

⁵ SJVAPCD. 2018 Plan for the 1997, 2006, and 2012 PM_{2.5} Standards. <https://ww2.valleyair.org/rules-and-planning/air-quality-plans/particulate-matter-plans/2018-pm-25-plan-for-the-san-joaquin-valley>

⁶ CARB. San Joaquin Valley Supplement to the 2016 State Strategy for the State Implementation Plan. <https://ww2.arb.ca.gov/resources/documents/2016-state-strategy-state-implementation-plan-federal-ozone-and-pm25-standards>

⁷ CARB. 2016 State Strategy for the State Implementation Plan. <https://ww2.arb.ca.gov/resources/documents/2016-state-strategy-state-implementation-plan-federal-ozone-and-pm25-standards>

15 ug/m³ SIP Revision, CARB staff engaged in a thorough public process that addresses the requirements of Title VI. CARB will continue to address the requirements of Title VI in implementing the above plans and related Clean Air Act requirements. To facilitate and guide future state implementation efforts, CARB encourages U.S. EPA to issue additional guidance to further clarify Title VI requirements and expectations.

Many low-income and disadvantaged communities in nonattainment areas, and across the State, continue to experience disproportionately high levels of air pollution and the resulting detrimental impacts to their health from widespread pollution from a variety of activities are longstanding. Research⁸ shows large disparities in exposure to pollution between disadvantaged and other communities as well as between racial groups, with Black and Latino populations experiencing significantly greater air pollution impacts than white populations. Mobile source pollution exposures show some of the highest disparities.⁹ Mobile sources, such as cars, trucks, locomotives, ships, and aircraft, are the largest sources of pollution exposure disparity for Black populations and disadvantaged community residents, when compared to the average population in California, oftentimes because these disproportionately impacted residents live near transportation corridors and freight facilities. Specifically, mobile sources in California accounted for 45 percent of exposure disparity for the Black population, and 37 percent of exposure disparity for people in disadvantaged communities. While significant progress has been made in reducing mobile and stationary source pollution in California, disparities in the location of pollution and cumulative exposures continue. Pollution disparities based on income and race are not unique to California as reflected by multiple states and the U.S. EPA making efforts that align with California to pursue environmental justice in air quality control.

CARB prioritizes environmental justice, incorporating racial equity, and conducting meaningful community engagement in its policy and planning efforts and programs. This work aims to address the longstanding environmental and health inequities from elevated levels of toxic air contaminants, criteria pollutants, and secondary impacts of climate change. It is imperative to optimize California's control programs to maximize emissions reductions and provide targeted near-term benefits in those communities that continue to bear the brunt of poor air quality. Specific localized efforts include development of community air monitoring networks to learn about local exposures, development of a racial equity assessment lens to consider benefits and burdens of CARB programmatic work in the planning stages, continuously increasing and improving community engagement efforts, and implementation of Assembly Bill (AB) 617 (C. Garcia, Chapter 136, Statutes of 2017), known as the Community Air Protection Program¹⁰, as described in more detail below. Significant progress has been made to address air pollution statewide and in local communities, and it is imperative to also ensure all Californians have access to healthy air quality.

⁸ Apte et al. (2019). A Method to Prioritize Sources for Reducing High PM_{2.5} Exposures in Environmental Justice Communities in California. CARB Research Contract Number 17RD006

⁹ Ibid.

¹⁰ CARB. Community Air Protection Program. <https://ww2.arb.ca.gov/capp>

Efforts undertaken by California in developing the Valley State SIP Strategy, 2018 PM2.5 Plan, and 15 µg/m³ SIP Revision are consistent with prioritizing environmental justice and ultimately will reduce mobile source emissions from heavy-duty trucks and other indirect pollution sources around facilities like warehouses, railyards, and ports, as well as reducing other emissions, which will reduce health risk in California's most impacted communities.

Public Involvement in Development of the Valley State SIP Strategy, 2018 PM2.5 Plan, and 15 µg/m³ SIP Revision

CARB prioritized public participation with impacted communities as an essential part of developing the measures in the Valley State SIP Strategy, which formed the basis of the 2018 PM2.5 Plan later amended by the 15 µg/m³ SIP Revision.

On May 17, 2016, CARB released the Proposed 2016 State SIP Strategy, which described CARB's proposed commitment to achieve the mobile source and consumer products emission reductions needed to meet federal air quality standards over the next 15 years with a focus on ozone attainment for the 75 ppb 8-hour ozone standard. Staff conducted a public workshop in Sacramento and participated in a San Joaquin Valley ozone plan workshop. Finally, staff presented the strategy and proposed measures to the Board on September 22, 2016, to receive Board direction, as well as to provide an additional opportunity for public comment. CARB released the Revised 2016 State SIP Strategy on March 7, 2017, and the Board approved it on March 23, 2017.

Within the context of the 2016 State SIP Strategy, the Board also directed staff to return at a later date with a proposal to achieve additional emission reductions from mobile sources by 2024 and 2025, as part of a comprehensive plan to attain the PM2.5 standards in the San Joaquin Valley. CARB implemented this direction and provided many opportunities for public engagement on meeting the 15 µg/m³ annual PM2.5 standard. CARB held a workshop in Fresno in December 2016 with community members and stakeholders to discuss specific emission reduction needs, strategy approaches, and opportunities for early reductions to meet PM2.5 standards in the Valley. In May 2017, CARB held a second community meeting in Fresno and then provided an update to the Board on the progress of identifying the emission reductions needed to meet PM2.5 standards in the San Joaquin Valley, including from the Heavy-Duty Inspection and Maintenance Program. In September 2017, CARB and the District co-hosted a workshop in Bakersfield to continue the public process and CARB staff also updated the Board on the progress on the additional emission reductions. In August 2018, CARB, the District and U.S. EPA held a community meeting in Fresno that presented the attainment strategy for all PM2.5 standards including the 15 µg/m³ annual standard.

The Valley State SIP Strategy builds on the measures approved in the 2016 State SIP Strategy by including San Joaquin Valley-specific measures that provide for the mobile source emissions reductions needed to attain the PM2.5 standards in 2024 and 2025 for the 2018 PM2.5 Plan. Documents related to the Valley State SIP Strategy and 2018 PM2.5 Plan were published for public review 30 days in advance of any Board hearings. CARB Board hearings and CARB-hosted workshops related to the Valley State SIP Strategy and 2018 PM2.5 Plan

offered simultaneous Spanish translation. Throughout the process of developing the 2018 PM2.5 Plan, CARB staff were in regular contact with community-based organizations, providing updates, responding to questions, and listening to feedback. The Valley State SIP Strategy was published on the CARB website for public review on September 21, 2018, in advance of the Board hearing, which was held on October 25, 2018. In addition to the public process for the 2016 State SIP Strategy and Valley State SIP Strategy, CARB and the District undertook an extensive public process to develop the 2018 PM2.5 Plan as outlined in detail in the introduction chapter to the 2018 PM2.5 Plan¹¹.

On August 13, 2021, CARB provided public notice that the 15 µg/m³ SIP Revision would be heard at the September 23-24, 2021, public hearing of the Board. The CARB Staff Report for the 15 µg/m³ SIP Revision was published the same day for a 30- day public review on the CARB website. Measures identified and quantified in the 15 µg/m³ SIP Revision were adopted and previously underwent the public process as part of the 2016 State SIP Strategy and Valley State SIP Strategy development process.

Recent and Continuing Efforts

CARB continues to develop and implement measures that will reduce mobile source emissions and provide cleaner air in impacted communities. Beyond the planning efforts underpinning the 15 ug/m³ SIP Revision, CARB also recently developed the 2022 State Strategy for the State Implementation Plan (2022 State SIP Strategy) and continues to implement the Community Air Protection Program.

CARB initiated the public process for the 2022 State SIP Strategy with a workshop in July 2021. After the workshop, CARB staff proactively reached out to and met separately with a number of community-based organizations who provided input on the potential control measures proposed by CARB. CARB staff published the 2022 State SIP Strategy: Draft Measures document on October 6, 2021, which included the new “Public Measure Suggestions” section reflecting input coming out of these meetings with community-based organizations and suggestions from members of the public.

CARB staff held a second workshop discussing the Draft Measures document in October 2021 and received additional input from a broad array of stakeholders. The webinar presented a detailed discussion on the potential measures and allowed for the public and stakeholders to comment on every facet of each potential measure. CARB staff also participated in the Valley control measure workshops as part of their SIP development process. The Draft 2022 State SIP Strategy was released in January 2022, prior to a third workshop, and an informational update was presented at the Board Meeting in February 2022 to discuss and obtain public feedback. As a result of these extensive outreach and engagement efforts, CARB received many suggestions for potential additional State measures to be included in the Proposed 2022 State SIP Strategy. Many of the items have also been included or discussed as part of various Community Emissions Reduction Programs

¹¹ SJVAPCD. 2018 PM2.5 Plan. <https://www.valleyair.org/pmplans/documents/2018/pm-plan-adopted/01.pdf>

developed by selected communities, together with their air district partners, under CARB's Assembly Bill 617 Community Air Protection Program. CARB explored ways in which these community-based concepts could be included as measures in the Proposed 2022 State SIP Strategy and welcomed feedback and additional suggestions from the public during the remainder of the Strategy development process.

These workshops and Board updates for the 2022 State SIP Strategy provided forums in both English and Spanish and afforded any special accommodations, if requested, to facilitate discussing the proposed measures in a public setting and to provide additional opportunities for public feedback, input, and ideas. And finally, CARB released the Proposed 2022 State SIP Strategy and hosted a fourth workshop in August 2022, prior to the Board adopting the 2022 State SIP Strategy in September 2022. The workshops were well attended by a wide range of stakeholders, including representatives from community-based organizations in the San Joaquin Valley. CARB staff listened to stakeholders, evaluated their recommendations, and included some of these recommendations as measures that were appropriate for the 2022 State SIP Strategy. In order for a public suggestion to be included as a SIP measure, it needed to meet U.S. EPA-required integrity elements. SIP measures are required to be quantifiable, enforceable, surplus, and permanent. Measures suggested by the public that were ultimately adopted in the 2022 State SIP Strategy include a regulation to reduce emissions of reactive organic gas from pesticides in collaboration with the California Department of Pesticide Regulation and a zero-emission truck measure to help ensure that smaller trucking companies have more consistent access to zero-emission truck incentives.

Following the Board's approval of the 2022 State SIP Strategy, the public processes will continue as each measure within the strategy goes through its own public process to engage with impacted communities and stakeholders to further develop the measures prior to being brought to the Board for consideration as a regulation or other program. As development and implementation of these measures progress, CARB staff will continue to identify and implement opportunities to mitigate air pollution associated with racial inequities and meaningfully engage and partner with communities most impacted to address longstanding disparities and challenges. CARB will also continue to partner with other authorities such as air districts including the San Joaquin Valley APCD, other State agencies, and the federal government to ensure emissions reductions are achieved.

In addition to SIP efforts and individual regulatory processes reducing air pollution statewide, AB 617 requires community-focused and community-driven action to reduce air pollution and improve public health in communities that experience disproportionate burdens from exposure to air pollutants in California. CARB implements AB 617 through its Community Air Protection Program, which has created new opportunities for CARB and the local air districts including the San Joaquin Valley APCD to understand community member concerns through active participation in envisioning, developing, and implementing actions to clean the air in their communities. The Community Air Protection Program was first implemented starting in 2018 and has since had 19 communities selected into the Community Air Protection Program as of February 2023. In the San Joaquin Valley, four communities have been selected into the Program: South Central Fresno, Shafter, Stockton, and Arvin/Lamont. Each of these communities has an approved Community Emission Reduction Plan (CERP) and Community

Air Monitoring Plan (CAMP), to implement local monitoring and emission reduction strategies to reduce both criteria and toxic air pollutants in these cumulative emissions burdened communities.¹²

CARB is now engaging in a process to provide greater opportunities and additional support for impacted communities across the State through the revision of the AB 617 Statewide Strategy, also referred to as the Community Air Protection Program Blueprint. The revision of the Program Blueprint with input from community-based organizations and impacted communities seeks to design more efficient approaches to maximize similar air quality benefits for more impacted communities. Moving forward, the Community Air Protection Program and complementary environmental justice and racial equity work across CARB programs, policies and SIP planning efforts will continue to evolve and grow.

CARB is also developing a racial equity lens to use in developing planning and regulatory actions. Using a racial equity lens will involve asking how our actions will benefit and potentially burden communities, including estimating impacts and benefits on the basis of race, ethnicity or other relevant categories, and considering alternatives.

These connected efforts, as well as interagency efforts, will provide additional pathways to address Title VI requirements and support achieving the goal where zip code or race does not predict air pollution exposures. CARB has reviewed U.S. EPA and U.S. Department of Justice resources for Title VI and environmental justice policies, and looks forward to written Title VI guidance from U.S. EPA to address Act section 110(a)(2)(E) as the State develops future clean air plans.

Civil Rights Policy and Discrimination Complaint Process

Under CARB's written Civil Rights Policy and Discrimination Complaint process (Civil Rights Policy), CARB has a policy of nondiscrimination in its programs and activities and implements a process for discrimination complaints filed with CARB, which is available on CARB's website. The Civil Rights Officer coordinates implementation of CARB's nondiscrimination activities, including as the Equal Employment Opportunity (EEO) Officer for employment purposes, and who can be reached at EEOP@arb.ca.gov, or (279) 208-7110.¹³

The Civil Rights Policy and Discrimination Complaint Process provides the following information about the nondiscrimination policy and its applicability:

It is the California Air Resources Board (CARB) policy to provide fair and equal access to the benefits of a program or activity administered by CARB. CARB will not tolerate

¹² CERPs for South Central Fresno, Shafter, Stockton, and Arvin/Lamont are available on the District AB 617 webpage at <https://community.valleyair.org/community-emission-reduction-programs>. CAMPs are available at <https://community.valleyair.org/community-air-monitoring>.

¹³ CARB. California Air Resources Board and Civil Rights. <https://ww2.arb.ca.gov/california-air-resources-board-and-civil-rights>; Civil Rights Policy and Discrimination Compliant Process. November 1, 2016. <https://ww2.arb.ca.gov/sites/default/files/2023-01/2016-11-03%20CARB%20Civil%20Rights%20Policy%20Revised%20Final.pdf>

discrimination against any person(s) seeking to participate in, or receive the benefits of, any program or activity offered or conducted by CARB. Members of the public who believe they were unlawfully denied full and equal access to an CARB program or activity may file a civil rights complaint with CARB under this policy. This non-discrimination policy also applies to people or entities, including contractors, subcontractors, or grantees that CARB utilizes to provide benefits and services to members of the public. [. . .]

As described in the Civil Rights Policy and Discrimination Complaint Process, the Civil Rights Officer coordinates implementation of nondiscrimination activities:

CARB's Executive Officer will have final authority and responsibility for compliance with this policy. CARB's Civil Rights Officer, on behalf of the Executive Officer, will coordinate this policy's implementation within CARB, including work with the Ombudsman's Office, Office of Communications, and the staff and managers within a program or activity offered by CARB. The Civil Rights Officer coordinates compliance efforts, receives inquiries concerning non-discrimination requirements, and ensures CARB is complying with state and federal reporting and record retention requirements, including those required by Code of Federal Regulations, title 40, section 7.10 et seq.

The Civil Rights Policy and Discrimination Complaint Process also describes in detail the complaint procedure, as follows:

A Civil rights complaint may be filed against CARB or other people or entities affiliated with CARB, including contractors, subcontractors or grantees that CARB utilizes to provide benefits and services to members of the public. The complainant must file his or her complaint within one year of the alleged discrimination. This one-year time limit may be extended up to, but no more than, an additional 90 days if the complainant first obtained knowledge of the facts of the alleged violation after the expiration of the one-year time limit. [. . .]

The Civil Rights Officer will review the facts presented and collected and reach a determination on the merits of the complaint based on a preponderance of the evidence. The Civil Rights Officer will inform the complainant in writing when CARB has reached a determination on the merits of the discrimination complaint. Where the complainant has articulated facts that do not appear discriminatory but warrants further review, the Civil Rights Officer, in his or her discretion, may forward the complaint to a party within CARB for action. The Civil Rights Officer will inform the complainant, either verbally or in writing, before facilitating the transfer. [. . .]

CARB will not tolerate retaliation against a complainant or a participant in the complaint process. Anyone who believes that they have been subject to retaliation in violation of this policy may file a complaint of retaliation with CARB following the procedures outlined in this policy.

There is a Civil Rights Complaint Form available¹⁴ on the webpage, which should be used by members of the public to file a complaint of discrimination against CARB that an individual believes occurred during the administration of its programs and services offered to the public. As described on CARB's webpage, for all complaints submitted, the Civil Rights Officer will review the complaint to determine if there is a prima facie complaint (which means, if all facts alleged were true, would a violation of the applicable policy exist). If the Civil Rights Officer identifies a prima facie complaint in the jurisdiction of the Civil Rights Office, the Civil Rights Office will investigate and determine whether there is a violation of the policy.

The laws and regulations that CARB implements through this policy include:

- Code of Federal Regulations, Title 40 Parts 5 and 7;
- Title VI of the U.S. Civil Rights Act of 1964, as amended;
- Section 504 of the Rehabilitation Act of 1973;
- Age Discrimination Act of 1975;
- Title IX of the Education Amendments of 1972;
- California Government Code, title 2, Division 3, Part 1, Chapter 2, Article 9.5, *Discrimination*, section 11135 et seq.; and
- California Code of Regulations, title 2, section 10000 et seq.

As part of its overarching civil rights and environmental justice efforts, CARB is in the process of updating its Civil Rights Policy and will make those publicly available once complete. These updates will reflect available U.S. EPA and U.S. Department of Justice resources for Title VI and environmental justice policies. As mentioned above, CARB encourages U.S. EPA to issue additional guidance to further clarify Title VI requirements and expectations to assist state implementation efforts.

¹⁴ CARB. Civil Rights Complaint Form. July 2019. https://ww2.arb.ca.gov/sites/default/files/2023-01/eo_eo_033_civil_rights_complaints_form.pdf