

**State of California
Air Resources Board**

Executive Order S-23-019

**Submittal of the San Joaquin Valley Air Pollution Control District Initial State
Implementation Plan Requirements for the 2012 Annual Fine Particulate Matter
Standard**

Whereas, the California Legislature in Health and Safety Code (H&SC) section (§) 39602 has designated the California Air Resources Board (CARB) as the air pollution control agency for all purposes set forth in federal law;

Whereas, CARB is responsible for preparing a State Implementation Plan (SIP) for attaining and maintaining the national ambient air quality standards (NAAQS or standard) as required by the federal Clean Air Act (the Act; 42 U.S.C. § 7401 et seq.), and to this end is directed by H&SC § 39602 to coordinate the activities of all local and regional air pollution control and air quality management districts (districts) as necessary to comply with the Act;

Whereas, CARB has primary responsibility for the control of air pollution from vehicular sources, including motor vehicle fuels, as specified in H&SC §§ 39002, 39500, and 43000, et seq.), and for ensuring that the districts meet their responsibilities under the Act pursuant to H&SC §§ 39002, 39500, 39602, 41650, and 41652;

Whereas, the local air districts have primary responsibility for the control of air pollution from non-vehicular sources and for adopting control measures, rules and regulations to attain the NAAQS within their boundaries pursuant to H&SC §§ 39002, 40000, 40001, 40701, 40702, and 41650;

Whereas, H&SC § 39602 also provides that the SIP shall include only those provisions necessary to meet the requirements of the Act;

Whereas, H&SC § 41650 requires CARB to approve the nonattainment area plan adopted by a district as part of the SIP unless the Board finds, after a public hearing, that the plan does not meet the requirements of the Act;

Whereas, H&SC § 39515 provides that any power, duty, purpose, function or jurisdiction of the Board may be delegated to the CARB Executive Officer as the Board deems appropriate;

Whereas, H&SC § 39516 provides that any power, duty, purpose, function, or jurisdiction of the Board is presumed delegated to the CARB Executive Officer unless it has been specifically reserved to the state Board for its own action;

Whereas, the Board has not reserved the power to adopt and submit SIP revisions to itself;

Whereas, the San Joaquin Valley Air Basin (Valley) includes Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare, and western Kern Counties;

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Whereas, the San Joaquin Valley Air Pollution Control District (District) was established under H&SC § 40600 as the unified air pollution control district responsible for carrying out air quality activities in the Valley;

Whereas, in 1997, the U.S. Environmental Protection Agency (U.S. EPA) promulgated an annual NAAQS for fine particulate matter (PM_{2.5}) at a level of 15 micrograms per cubic meter (µg/m³)¹ (15 µg/m³ annual standard) which was revised to 12 µg/m³ (12 µg/m³ annual standard) in 2012²;

Whereas, effective April 2015, U.S. EPA designated the San Joaquin Valley as a Moderate nonattainment area for the 12 µg/m³ annual standard;³

Whereas, in August 2016, U.S. EPA finalized the PM_{2.5} SIP implementation rule (Rule) which established the framework and requirements that states must meet in developing PM_{2.5} SIPs based on provisions of Subpart 4 of the Act;⁴

Whereas, CARB and the District developed the *2016 Moderate Area Plan for the 2012 PM_{2.5} Standard* (2016 Moderate Plan) to fulfill the Moderate planning requirements of the Act and Rule for a Moderate area for the 12 µg/m³ annual standard, including a demonstration of impracticability of attaining the standard by the Moderate attainment deadline of December 31, 2021, and a request for reclassification to Serious;

Whereas, CARB and the District developed the *2018 Plan for the 1997, 2006, and 2012 PM_{2.5} Standards* (2018 PM_{2.5} Plan) to meet the Serious area planning requirements for the 65 µg/m³ 24-hour, 15 µg/m³ annual, 35 µg/m³ 24-hour, and 12 µg/m³ annual standards, consistent with the Act and the Rule;

Whereas, CARB adopted the 2016 Moderate Plan and 2018 PM_{2.5} Plan in January 2019 and submitted them to U.S. EPA in May 2019;

Whereas, effective December 27, 2021, U.S. EPA approved the 2016 Moderate Plan and reclassified the San Joaquin Valley to Serious nonattainment;⁵ which established a due date for SIP elements including a base year emissions inventory, best available control measures (BACM) demonstration, and nonattainment new source review (NNSR) SIP revisions 18 months later and the remaining Serious area SIP elements 24 months later;

Whereas, on December 29, 2021, U.S. EPA proposed approval of the portions of the 2018 PM_{2.5} Plan pertaining to the Serious area requirements for the 12 µg/m³ standard;⁶

¹ 62 Fed. Reg. 38,652 (July 18, 1997)

² 78 Fed. Reg. 3,086 (January 15, 2013)

³ 80 Fed. Reg. 2,206 (April 15, 2015)

⁴ 81 Fed. Reg. 58,010 (August 24, 2016)

⁵ 86 Fed. Reg. 67,343 (December 27, 2021)

⁶ 86 Fed. Reg. 74,310 (December 29, 2021)

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Whereas, on October 5, 2022, U.S. EPA re-proposed disapproval of the portions of the 2018 PM2.5 Plan pertaining to the Serious area requirements for the 12 ug/m3 standard;⁷

Whereas, on October 27, 2022, CARB requested withdrawal of the portions of the 2018 PM2.5 Plan pertaining to the Serious area requirements for the 12 ug/m3 standard in response to the proposed disapproval and recognizing that these SIP elements were not due until 2023;

Whereas, the Act and Rule allow the state to prepare an optional precursor analysis to determine the significant precursors to be addressed in meeting the Act's requirements for BACM, reasonable further progress, contingency measures, and for developing inter-pollutant trading ratios;

Whereas, the District developed, in collaboration with CARB through a public process, the *Initial SIP Requirements for the 2012 Annual PM2.5 Standard* (Initial SIP Requirements) to address initial elements required for the Serious area SIP for the 12 ug/m3 standard due 18 months after designation to Serious;

Whereas, consistent with the Act and Rule, the Initial SIP Requirements includes a comprehensive, accurate, current base year emissions inventory for directly emitted PM2.5 and its precursors, oxides of nitrogen (NOx), reactive organic gases (ROG), sulfur oxides (SOx), and ammonia for all sources in the Valley;

Whereas, consistent with the Act and Rule, the Initial SIP Requirements includes an optional precursor demonstration that determined that NOx emissions is the only significant precursor to be addressed along with directly emitted PM2.5 emissions;

Whereas, consistent with the Act and Rule, the Initial SIP Requirements includes a BACM assessment for sources of NOx and PM2.5 emissions;

Whereas, the District adopted revisions to District Rule 2201 on April 20, 2023, fulfilling the NNSR requirements for a Serious 12 ug/m3 standard PM2.5 nonattainment area, and CARB submitted the amended District Rule 2201 to U.S. EPA on October 17, 2023, as a revision to the California SIP;

Whereas, federal law set forth in §110(l) of the Act and title 40, Code of Federal Regulations (CFR), §51.102 requires that one or more public hearings, preceded by at least 30 days' notice and opportunity for review, must be conducted prior to the adoption and submittal to U.S. EPA of any SIP revision;

Whereas, following duly noticed public hearing, the District Governing Board adopted the Initial SIP Requirements on October 19, 2023;

⁷ 87 Fed. Reg. 60,494 (October 5, 2022)

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Whereas, on October 19, 2023, the District transmitted the Initial SIP Requirements to CARB for submission to U.S. EPA for inclusion in the California SIP;

Whereas, CARB has determined that the Initial SIP Requirements submittal meets the requirements of the Act and is necessary for inclusion in the SIP;

Whereas, Title VI of the U.S. Civil Rights Act of 1964 (Title VI) provides that no person in the United States shall, on the ground 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;

Whereas, other relevant federal laws including Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and the Federal Water Pollution Control Act Amendments of 1972 prohibit discrimination in the use of federal funds based on disability, sex, and age;

Whereas, as a recipient of federal funds, CARB must ensure it complies with Title VI and U.S. EPA's Title VI implementation regulations in its relevant programs and policies;

Whereas, state law requires CARB in its programs and activities to not discriminate or cause disparate impacts based on protected characteristics, which include race, color, national origin, sex, and age, among others;

Whereas, in developing the Initial SIP Requirements, staff engaged in a thorough public process to address the requirements of Title VI and other relevant laws;

Whereas, this public process included three workshops held in March, May, and September 2023 to solicit input from the public;

Whereas, the workshops were hosted both in person and through the Zoom platform to allow more community members to participate without needing to travel, with provision of English and Spanish translation services during the workshops, and with public posting on the District's website of recordings of the workshops in English and Spanish;

Whereas, this public process sought to facilitate discussion of the Initial SIP Requirements in a public setting and provide additional opportunity for public feedback, input, and ideas;

Whereas, CARB has determined that the Initial SIP Requirements meets CARB's applicable obligations under Title VI of the Civil Rights Act of 1964;

Whereas, the District certified in its Governing Board resolution that the Initial SIP Revisions submittal poses no significant impact on the environment and is exempt from the California Environmental Quality Act (CEQA) under §15061 of the CEQA guidelines, title 14 of the California Code of Regulations (CCR); and

Whereas, CARB has determined that CARB's subsequent adoption of the Initial SIP Requirements is a "ministerial" approval for purposes of CEQA, (CCR, title 14, §15268) because CARB's review is limited to determining if the SIP meets the requirements of the

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Act, and CARB lacks authority to modify or not approve the SIP in response to environmental concerns.

Therefore, it is ordered that CARB hereby adopts the Initial SIP Requirements as a revision to the California SIP.

Be it further ordered that CARB hereby directs staff to submit to U.S. EPA the Initial SIP Requirements and request that U.S. EPA approve it as a revision to the California SIP.

I certify, pursuant to 40 CFR §51.102(f), that the Initial SIP Requirements was adopted after notice and public hearings as required by 40 CFR §51.102(a) and §51.102(d).

Executed in Sacramento, California, this 17 day of November, 2023.



Steven S. Cliff, Ph.D., Executive Officer