

**State of California
Air Resources Board**

Executive Order S-23-016

**Submittal into the California State Implementation Plan of the Eastern Kern
Reasonably Available Control Technology State Implementation Plan for the 2008 and
2015 8-Hour Ozone National Ambient Air Quality Standards**

Whereas, sections 39600 and 39601 of the Health and Safety Code authorize the California Air Resources Board (CARB 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, the Legislature in Health and Safety Code section 39602 has designated 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) as required by the federal Clean Air 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, CARB has primary responsibility for the control of air pollution from vehicular sources, including motor vehicle fuels, as specified in Health and Safety Code sections 39002, 39500, and part 5 commencing with section 43000, and for ensuring that the districts meet their responsibilities under the Act pursuant to Health and Safety Code sections 39002, 39500, 39602, 40469, and 41650;

Whereas, the 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 Health and Safety Code sections 39002, 40000, 40001, 40701, 40702, and 41650;

Whereas, Health and Safety Code section 39602 also provides that the state implementation plan shall include only those provisions necessary to meet the requirements of the Clean Air Act;

Whereas, Health and Safety Code section 41650 requires CARB to approve the nonattainment area plan approved by a district as part of the state implementation plan unless the Board finds, after a public hearing, that the plan does not meet the requirements of the Clean Air Act;

Whereas, Health and Safety Code section 39515 and 39516 provide that any duty may be delegated to the Board's Executive Officer as the Board deems appropriate;

Whereas, on March 27, 2008, U.S. Environmental Protection Agency (U.S. EPA) promulgated an 8-hour ozone standard of 75 parts per billion;

Whereas, on July 20, 2012, U.S. EPA designated Eastern Kern as a Marginal nonattainment area for the 75 parts per billion 8-hour ozone standard;

Whereas, the Eastern Kern Air Pollution Control District is the district responsible for air quality planning for the Eastern Kern nonattainment area and for the control of air pollution from all sources, other than emissions from motor vehicles under Health and Safety Code sections 40000 and 40100, et seq., and section 60110 of title 17 of the California Code of Regulations;

Whereas, effective July 7, 2021, after a request from the Eastern Kern Air Pollution Control District and CARB, U.S. EPA classified Eastern Kern as a Severe nonattainment area for the 75 parts per billion 8-hour ozone standard with an attainment date of July 15, 2027;

Whereas, on October 1, 2015, U.S. EPA promulgated an 8-hour ozone standard of 70 parts per billion;

Whereas, on June 4, 2018, U.S. EPA designated Eastern Kern as a Moderate nonattainment area for the 70 parts per billion 8-hour ozone standard;

Whereas, on August 7, 2023, CARB submitted, on behalf of the Eastern Kern Air Pollution Control District, a request to reclassify Eastern Kern as a Severe nonattainment area for the 70 parts per billion 8-hour ozone standard;

Whereas, on December 6, 2018, U.S. EPA published the Rule, "Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements," (83 FR 62998 et seq.), which requires the submission of reasonably available control technology SIPs for nonattainment areas classified as Moderate or above;

Whereas, U.S. EPA has published control techniques guidelines that establish reasonably available control technology control limits for volatile organic compounds emissions from specific stationary source categories and establish various major source threshold limits;

Whereas, U.S. EPA requires the review of rules for control techniques guideline and major non-control techniques guideline sources located in the nonattainment area to determine if those rules meet reasonably available control technology requirements and to update or adopt new rules if necessary;

Whereas, U.S. EPA requires negative declarations for not having a listed control techniques guideline or major non-control techniques guideline for sources in the nonattainment area;

Whereas, following U.S. EPA requirements, the Eastern Kern Air Pollution Control District reviewed its existing rules to determine if its rules continue to meet the reasonably available control technology requirements for the 70 and 75 parts per billion 8-hour ozone standards and concluded in the *Reasonably Available Control Technology State Implementation Plan for the 2008 and 2015 8-Hour Ozone National Ambient Air Quality Standards* that all rules either continue to meet reasonably available control technology or are not subject to reasonably available control technology requirements for the Severe nonattainment area classification;

Whereas, the *Reasonably Available Control Technology State Implementation Plan for the 2008 and 2015 8-Hour Ozone National Ambient Air Quality Standards* includes a negative declaration certifying that no sources are present in the Eastern Kern County ozone

nonattainment area for the applicable control techniques guidelines and control techniques guideline source categories;

Whereas, federal law set forth in section 110(l) of the Clean Air Act and Title 40, Code of Federal Regulations, section 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 state implementation plan revision;

Whereas, on July 27, 2023, following a duly noticed public hearing, the Eastern Kern Air Pollution Control District Board adopted the *Reasonably Available Control Technology State Implementation Plan for the 2008 and 2015 8-Hour Ozone National Ambient Air Quality Standards*;

Whereas, on July 27, 2023, the District certified in their Board resolution that the *Reasonably Available Control Technology State Implementation Plan for the 2008 and 2015 8-Hour Ozone National Ambient Air Quality Standards* is categorically exempt from California Environmental Quality Act review under Sections 15061(b)(2) and 15308 of the California Environmental Quality Act Guidelines;

Whereas, to meet the requirements of California Environmental Quality Act, the Eastern Kern Air Pollution Control District proposed a Notice of Exemption under California Environmental Quality Act for the *Reasonably Available Control Technology State Implementation Plan for the 2008 and 2015 8-Hour Ozone National Ambient Air Quality Standards*;

Whereas, CARB has determined that CARB's subsequent adoption of the *Reasonably Available Control Technology State Implementation Plan for the 2008 and 2015 8-Hour Ozone National Ambient Air Quality Standards* is a "ministerial" approval for purposes of California Environmental Quality Act, (CCR, title 14, section 15268) because CARB's review is limited to determining if the *Reasonably Available Control Technology State Implementation Plan for the 2008 and 2015 8-Hour Ozone National Ambient Air Quality Standards* meets the requirements of the Clean Air Act, and CARB lacks authority to modify or not approve the plan in response to environmental concerns;

Whereas, on September 19, 2023, the Eastern Kern Air Pollution Control District submitted the *Reasonably Available Control Technology State Implementation Plan for the 2008 and 2015 8-Hour Ozone National Ambient Air Quality Standards* to CARB as a state implementation plan revision, along with proof of public notice publication, and environmental documents in accordance with State and federal law; and

Whereas, CARB has determined that the *Reasonably Available Control Technology State Implementation Plan for the 2008 and 2015 8-Hour Ozone National Ambient Air Quality Standards* meets the requirements of the Clean Air Act.

Now, therefore, be it ordered that the Executive Officer hereby adopts the *Reasonably Available Control Technology State Implementation Plan for the 2008 and 2015 8-Hour Ozone National Ambient Air Quality Standards* as a revision to the California state implementation plan.

Be it further ordered that CARB hereby submits to U.S. EPA the *Reasonably Available Control Technology State Implementation Plan for the 2008 and 2015 8-Hour Ozone*

National Ambient Air Quality Standards and requests that U.S. EPA approve it as a revision to the California state implementation plan.

I certify, pursuant to Title 40 Code of Federal Regulations section 51.102(f), that the *Reasonably Available Control Technology State Implementation Plan for the 2008 and 2015 8-Hour Ozone National Ambient Air Quality Standards* was adopted after notice and public hearing as required by 40 Code of Federal Regulations section 51.102 (a) and (b).

Executed in Sacramento, California, this 25 day of October, 2023.



Steven S. Cliff, Ph.D. Executive Officer