

Proposed
State of California
Air Resources Board

San Joaquin Valley 70 parts per billion Ozone State Implementation Plan

Resolution 23-3

January 26, 2023

Agenda Item No.: 23-1-4

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 California 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 the State Implementation Plan (SIP) for attaining and maintaining the National Ambient Air Quality Standards (NAAQS or standards) as required by the federal Clean Air Act (the 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, Health and Safety Code section 39602 also provides that the SIP shall include only those provisions necessary to meet the requirements of the Act;

Whereas, Health and Safety Code section 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, Health and Safety Code sections 39515 and 39516 provide that any power, duty, purpose, function or jurisdiction of the Board may be delegated to the CARB Executive Officer as the Board deems appropriate, and is presumed delegated unless it has been specifically reserved;

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 section 39002, section 39500, and Division 26, Part 5, 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 local districts have primary responsibility for controlling air pollution from non-vehicular sources and for adopting control measures, rules, and regulations to attain the standards within their boundaries, pursuant to sections 39002, 40000, 40001, 40701, 40702, and 41650 of the Health and Safety Code;

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

Whereas, the San Joaquin Valley Air Pollution Control District (District) was established under section 40600 of the Health and Safety Code as the unified air pollution control district responsible for carrying out air quality responsibilities in the San Joaquin Valley;

Whereas, on October 26, 2015, the U.S. Environmental Protection Agency (U.S. EPA) promulgated an 8-hour NAAQS for ozone of 70 parts per billion (ppb) (70 ppb ozone standard);

Whereas, effective August 3, 2018, U.S. EPA designated the San Joaquin Valley as an Extreme nonattainment area for the 70 ppb 8-hour standard with an attainment deadline of August 3, 2038;

Whereas, because the ozone season in the San Joaquin Valley consists of the summer months, the area needs to meet the standard in the 2037 ozone season to meet the attainment deadline of August 3, 2038;

Whereas, effective February 4, 2019, U.S. EPA published the Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements (Ozone Rule) that established the planning requirements for the 70 ppb 8-hour ozone standard;

Whereas, the 8-hour ozone levels in the San Joaquin Valley have declined steadily, with Valley-wide values decreasing by 16.2 percent from 111 ppb in 2000 (when all monitoring sites in the Valley exceeded the 70 ppb 8-hour ozone standard) to 93 ppb in 2020;

Whereas, in March 2017, CARB adopted the 2016 State Strategy for the State Implementation Plan (2016 State SIP Strategy), which commits to the measures and aggregate emission reductions needed to attain federal ozone and fine particulate matter (PM_{2.5}) ambient air quality standards across California;

Whereas, the Board adopted the 2022 State Strategy for the State Implementation Plan (2022 State SIP Strategy) on September 22, 2022, which builds on existing programs and the previous 2016 State SIP Strategy and sets forth a commitment to pursue the proposed SIP measures or otherwise address each measure as described in the 2022 State SIP Strategy;

Whereas, the 2022 State SIP Strategy describes the control measures for State-regulated sources that CARB will pursue to reduce emissions to the levels needed for attainment of the 70 ppb 8-hour ozone standard across California;

Whereas, the measures in the 2022 State SIP Strategy will reduce emissions in the many low-income and underserved communities that continue to experience disproportionately high levels of air pollution and support other CARB planning efforts;

Whereas, when the Board adopted the 2022 State SIP Strategy, the Board directed the Executive Officer to calculate and commit to appropriate emission reductions from implementation of the 2022 State SIP Strategy in specific nonattainment areas, as attainment plan SIP revisions are developed or revised for these areas;

Whereas, CARB and the District jointly developed the 2022 Plan for the 2015 8-Hour Ozone Standard (2022 Ozone Plan) to meet the Extreme ozone nonattainment area planning

requirements for the San Joaquin Valley 70 parts per billion Ozone State Implementation Plan, consistent with the Act and the Ozone Rule;

Whereas, CARB staff developed a Staff Report for the 2022 Ozone Plan (CARB Staff Report) which, among other things, quantifies emissions reductions in the San Joaquin Valley from the CARB measures committed to in the 2022 State SIP Strategy;

Whereas, CARB is proposing in the CARB Staff Report an aggregate commitment to obtain emissions reductions of 25.3 tons per day (tpd) of oxides of nitrogen (NOx) and 4.6 tpd of reactive organic gases (ROG) in the San Joaquin Valley by 2037, with a subset to come specifically from on-road mobile source measures of 7.5 tpd NOx and 1.6 tpd ROG to be used for transportation conformity purposes as required under the Act;

Whereas, during the hearing on the 2022 State SIP Strategy and after public comments from advocates seeking reduced emissions from pesticides, the Board directed CARB staff, as part of the 2022 State SIP Strategy commitment for the San Joaquin Valley, to describe CARB's authority over pesticides and quantify the associated emissions reductions from the California Department of Pesticide Regulation's (DPR) 1,3-Dichloropropene (1,3-D) regulation (Pesticide Measure);

Whereas, the CARB Staff Report describes CARB's authority over pesticides and quantifies the expected emissions reductions from the Pesticide Measure of 0.4 tpd ROG in 2037 in the San Joaquin Valley;

Whereas, the Act and Ozone Rule require that Extreme ozone nonattainment area SIPs include: a current emissions inventory for ozone precursors, specifically NOx and ROG; a modeled attainment demonstration; reasonably available control measures (RACM) analysis; reasonable further progress (RFP) demonstration; corresponding motor vehicle emission budgets (MVEBs), contingency measures for RFP and attainment; transportation conformity budgets; and a vehicle miles travelled (VMT) offset demonstration;

Whereas, consistent with section 172(c)(3) of the Act, the 2022 Ozone Plan includes a comprehensive, accurate, and current inventory of emissions data of ozone precursors NOx and ROG;

Whereas, the 2022 Ozone Plan includes an attainment demonstration prepared by CARB and the District that provides for expeditious attainment of the 70 ppb 8-hour ozone standard by 2037 based on U.S. EPA guidance;

Whereas, the attainment demonstration modeling includes the benefits of CARB's existing mobile source control program of measures adopted through December 2021 and District rules submitted through March 2022;

Whereas, the attainment demonstration further includes emissions reductions from new measures committed to as a part of the 2022 State SIP Strategy which provide the necessary control strategy, demonstrating that the San Joaquin Valley will meet the 70 ppb 8-hour ozone standard by 2037;

Whereas, the 2022 Ozone Plan includes District measure commitments to explore and implement many stationary source emission reduction opportunities, and these potential enhancements to the District's regulations are included as SIP-strengthening measures;

Whereas, the 2022 Ozone Plan includes a commitment from the District to evaluate the next generation of innovative control technologies and seek additional emission reduction opportunities across several stationary and area source sectors;

Whereas, consistent with section 172(c)(1) of the Act, the 2022 Ozone Plan demonstrates RACM for ozone;

Whereas, consistent with sections 172(c)(2) and 182(c)(2) of the Act, the 2022 Ozone Plan identifies emission levels that demonstrate ozone RFP in the San Joaquin Valley in all the required milestone years under the Act's requirements through the attainment year;

Whereas, the 2022 Ozone Plan includes MVEBs for the 70 ppb 8-hour ozone milestone years in the San Joaquin Valley for the ozone precursor pollutants of NO_x and ROG;

Whereas, the 2022 Ozone Plan includes a contingency measure discussion that CARB and the District fully intend to meet the contingency requirement as required by the Act, but written U.S. EPA guidance is needed to provide direction and clarity to develop and adopt approvable contingency measures;

Whereas, CARB and the District continue to explore potential contingency measures while awaiting U.S. EPA's revised written guidance;

Whereas, together, the 2022 Ozone Plan and aggregate emission reduction commitment in the CARB Staff Report comprise a comprehensive SIP for the San Joaquin Valley;

Whereas, besides the SIP requirements addressed in the 2022 Ozone Plan, there are other requirements under the 70 ppb 8-hour ozone standard that have been or will be addressed through separate submittals;

Whereas, CARB has already submitted to U.S. EPA the emissions statement rule, new source review rule, RACT SIP, the Clean Fuels for Fleets Program, Clean Fuels for Boilers Program, and VMT offset demonstration as required by the Act and the Ozone Rule;

Whereas, sections 182(a)(2)(B), 182(b)(4), and 182(c)(3) of the Act require ozone nonattainment areas to have in place a vehicle inspection and maintenance program (I/M) to implement Basic and Enhanced I/M in the required areas that is at least as stringent as the federal program;

Whereas, in California, the Bureau of Automotive Repair (BAR) develops and implements the I/M program;

Whereas, California's I/M program was first submitted to and approved by U.S. EPA to be included in the California SIP in 1997, and later revisions were approved in 2007 and 2010;

Whereas, to meet requirements under the 70 ppb 8-hour ozone standard, CARB is working with BAR to conduct a performance standard evaluation to certify that California's existing program continues to meet requirements, and this evaluation is under development and is expected to be brought to the Board for consideration in early 2023;

Whereas, sections 185 and 182(b)(4) of the Act require ozone nonattainment areas classified as Severe or above to have programs in place for the collection of fees from major stationary sources of NO_x or ROG;

Whereas, this requirement is to be submitted by August 3, 2028, and will be included in a future submittal;

Whereas, section 182(e)(3) of the Act requires Extreme ozone nonattainment areas to have programs in place that require clean fuels for boilers;

Whereas, to meet requirements under the 70 ppb 8-hour ozone standard, the District adopted on June 17, 2021, a certification that District Rules 4305, 4306, 4320, and 4352—which regulate NOx emissions from existing, new, or modified boilers—continue to satisfy Section 182(e)(3) of the Act and therefore, there is no need to include additional control measures in the attainment plan to satisfy Section 182(e)(3) requirements for the 70 ppb 8-hour ozone standard;

Whereas, CARB staff has conducted a review of the 2022 Ozone Plan, and concluded it meets the requirements of the Act for the 70 ppb 8-hour ozone standard for the San Joaquin Valley;

Whereas, federal law set forth in 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 30 days of notice and opportunity for public review, must be conducted before adopting and submitting any SIP revision to U.S. EPA;

Whereas, the District prepared the 2022 Ozone Plan and released it to the public on November 15, 2022, for a 30-day public review prior to the District Governing Board hearing;

Whereas, the District Governing Board adopted the 2022 Ozone Plan on December 15, 2022, following a public process, including public notice and a comment period meeting the requirements of the Act;

Whereas, CARB staff prepared the CARB Staff Report containing the aggregate emission reduction commitment and released it to the public on December 16, 2022, for a 30-day public review prior to the Board hearing;

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 (California Environmental Quality Act (CEQA)); see also the CEQA Guidelines found in California Code of Regulations, title 14, section 15251(d), and CARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60007);

Whereas, CARB prepared an environmental analysis for the 2022 State SIP Strategy under its certified regulatory program to comply with the requirements of CEQA, which determined the 2022 State SIP Strategy could result in beneficial, less-than-significant, and potentially significant and unavoidable adverse impacts;

Whereas, CARB staff determined that CARB can rely on the environmental analysis prepared under its certified regulatory program for the 2022 State SIP Strategy, and no additional environmental review is required because the record evidence shows that CARB's aggregate commitment will not result in new significant adverse environmental impacts or a substantial increase in severity of previously identified significant adverse impacts, as described in Chapter VII of the Staff Report;

Whereas, to meet its obligations under CEQA, the District determined, under CEQA Guidelines sections 15002(k) and 15061, the 2022 Ozone Plan is exempt from CEQA under CEQA Guidelines sections 15061(b)(3) and 15308;

Whereas, the Board finds that:

1. The 2022 Ozone Plan and aggregate emission reduction commitment in the CARB Staff Report meet the requirements of the Act for the San Joaquin Valley as an Extreme ozone nonattainment area for the 70 ppb 8-hour ozone NAAQS;
2. Implementation of the 2022 Ozone Plan provides the emission reductions needed in the San Joaquin Valley for meeting the 70 ppb 8-hour ozone NAAQS by the attainment deadline;
3. The 2022 Ozone Plan and CARB Staff Report are consistent with CARB's environmental justice policies and do not disproportionately impact people of any race, culture, income, or national origin; and
4. CARB's aggregate commitment is covered by the prior environmental analysis for the 2022 State SIP Strategy prepared to comply with CEQA, and no additional environmental review, or revisions to the prior environmental analysis, are required because substantial evidence in the record shows there are no changes that will result in new significant adverse environmental impacts or a substantial increase in severity of previously identified significant adverse impacts.

Now, therefore, be it resolved that the Board hereby adopts the 2022 Ozone Plan and aggregate commitment to obtain emissions reductions of 25.3 tpd of NO_x and 4.6 tpd of ROG in the San Joaquin Valley by 2037, with a subset to come specifically from on-road mobile source measures of 7.5 tpd NO_x and 1.6 tpd ROG to be used for transportation conformity purposes in the CARB Staff Report.

Be it further resolved that the Board hereby directs the Executive Officer to submit the 2022 Ozone Plan and aggregate emission reduction commitment described in the CARB Staff Report to U.S. EPA for inclusion in the California SIP, to be effective, for purposes of federal law, upon approval by U.S. EPA.

Be it further resolved that the Board directs the Executive Officer to work with the District and U.S. EPA to take appropriate action to resolve any completeness or approvability issues that may arise regarding the SIP submission, including to meet applicable requirements for contingency measures.

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 that the 2022 Ozone Plan and aggregate emission reduction commitment were adopted after notice and public hearing as required by section 110(l) of the Act and 40 CFR, section 51.102.