

Proposed

State of California
Air Resources Board

Western Mojave Desert 70 Parts Per Billion Ozone Attainment Plan

Resolution 23-6

February 23, 2023

Agenda Item No.: 23-2-1

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, 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 NAAQS within their boundaries, pursuant to sections 39002, 40000, 40001, 40701, 40702, and 41650 of the Health and Safety Code;

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

Whereas, effective August 3, 2018, U.S. EPA designated the Western Mojave Desert as Severe nonattainment for the 70 ppb 8-hour ozone standard with an attainment date of August 3, 2033;

Whereas, the Western Mojave Desert nonattainment area is comprised of the southeastern portion of San Bernardino County, and the northeastern portion of Los Angeles County known as Antelope Valley;

Whereas, the Mojave Desert Air Quality Management District (Mojave Desert AQMD) is the local air district and planning agency for the portion of San Bernardino County and Riverside County not included within the boundaries of the South Coast Air Quality Management District, as defined in Health and Safety Code Section 41210;

Whereas, the Antelope Valley Air Quality Management District (Antelope Valley AQMD) is the local air district and planning agency for the Antelope Valley portion of Los Angeles County, as defined in Health and Safety Code Section 41300;

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

Whereas, the Act and the Ozone Rule require that a Severe nonattainment area SIP include an emissions inventory for ozone precursors, namely oxides of nitrogen (NO_x) and reactive organic gases (ROG); an attainment demonstration including reasonably available control measures (RACM); a reasonable further progress (RFP) demonstration and corresponding motor vehicle emission budgets (MVEBs); and contingency measures;

Whereas, the Mojave Desert AQMD developed the *MDAQMD Federal 70 ppb Ozone Attainment Plan for the Western Mojave Desert Nonattainment Area* and the Antelope Valley AQMD developed the *AVAQMD Federal 70 ppb Ozone Attainment Plan for the Western Mojave Desert Nonattainment Area*, collectively referred to as the Western Mojave Desert 70 ppb Ozone Attainment Plan (70 ppb Plan) to meet the Severe ozone area planning requirements for the 70 ppb ozone standard;

Whereas, the 70 ppb Plan attainment demonstration relies on adopted State and Antelope Valley and Mojave Desert AQMD regulations, and measures identified in the 2022 State Strategy for the State Implementation Plan (2022 State SIP Strategy);

Whereas, the Board adopted the 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, CARB staff has conducted a review of the 70 ppb Plan and prepared a staff report entitled *CARB Review of the Western Mojave Desert 70 ppb 8-Hour Ozone Attainment Plan* (Staff Report);

Whereas, the CARB Staff Report proposes an aggregate commitment of emissions reductions of 20.6 tons per day (tpd) of NO_x and 1.0 tpd of ROG in the Western Mojave Desert by 2032, including a subset to come specifically from on-road mobile source measures of 0.8 tpd NO_x and 0.2 tpd ROG, based on measures approved in the 2022 State SIP Strategy;

Whereas, the proposed aggregate emission reduction commitment may be achieved through the measures identified in the 2022 State SIP Strategy, alternative measures, incentive programs, and actual emission decreases;

Whereas, a typographical error was made during the development of the MVEBs included in the 70 ppb Plan which resulted in the NO_x and ROG emissions reduction benefits being interchanged;

Whereas, the CARB Staff Report includes, in Appendix A, corrected MVEBs for the Western Mojave Desert;

Whereas, consistent with section 172(c)(3) of the Act, the 70 ppb Plan includes a comprehensive, accurate, current inventory of NO_x and ROG emissions;

Whereas, consistent with sections 181(a) and 182(c)(2) of the Act, the 70 ppb Plan includes an attainment demonstration that shows attainment as expeditiously as practicable by 2032, the first complete ozone season prior to the Severe nonattainment area attainment deadline of August 3, 2033;

Whereas, consistent with section 172(c)(1) of the Act, the 70 ppb Plan demonstrates RACM by showing that no new measure implemented in Western Mojave Desert could advance attainment by one year;

Whereas, the 70 ppb Plan includes an RFP demonstration in which the prescribed RFP targets of 3 percent reduction of baseline emissions for each year are not met;

Whereas, for areas that cannot achieve the RFP targets of 3 percent of baseline emissions each year, section 182(c)(2)(B)(ii) of the Act allows an amount less than 3 percent each year if the State demonstrates to the satisfaction of the Administrator that the RFP demonstration includes all measures that can be feasibly implemented in the area, in light of technological achievability;

Whereas, U.S. EPA has no written guidance on development of RFP demonstrations under section 182(c)(2)(B)(ii) of the Act nor has approved any demonstrations under this provision;

Whereas, CARB provided Mojave Desert AQMD and Antelope Valley AQMD with guidance for analyzing “all measures that can feasibly be implemented in the area, in light of technological achievability” and “measures that are achieved in practice by sources in the same source category in nonattainment areas of the next higher classification” in order to develop an RFP demonstration under section 182(c)(2)(B)(ii);

Whereas, in their analysis of measures achieved in practice in the next higher classification, Extreme, and applicable to sources in the Western Mojave Desert nonattainment area, Mojave Desert AQMD and Antelope Valley AQMD identified a residential natural gas fired water heating rule implemented in the South Coast Air Basin Extreme nonattainment area which is also the measure with the greatest potential for emissions reductions;

Whereas, by including a commitment by Mojave Desert AQMD and Antelope Valley AQMD to adopt the identified natural gas fired residential water heating rule, the 70 ppb Plan satisfies the RFP demonstration requirements consistent with section 182(c)(2)(b)(ii) of the Act;

Whereas, consistent with section 176 of the Act, the 70 ppb Plan, along with the CARB Staff Report, establishes MVEBs developed in consultation between Mojave Desert AQMD, Antelope Valley AQMD, and the regional transportation agency, Southern California Association of Governments, that conform to the attainment and RFP emission levels;

Whereas, in anticipation of forthcoming guidance from U.S. EPA, the 70 ppb Plan includes contingency measures for RFP and attainment consistent with sections 172(c)(9) and 182(c)(9) of the Act and existing guidance that require contingency measures that go into effect without further regulatory action if an area fails to meet an RFP milestone or attain by the required deadline;

Whereas, in addition to the SIP requirements addressed in the 70 ppb Plan, other requirements for the 70 ppb ozone standard have been or will be addressed through separate SIP submittals;

Whereas, CARB has submitted to U.S. EPA the emissions statement rule, new source review rule, RACT SIP, the Clean Fuels for Fleets Program, and the Vehicle Miles Traveled 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 light-duty vehicle inspection and maintenance (I/M) program 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 light-duty vehicle I/M program;

Whereas, California’s light-duty vehicle I/M program was first submitted and approved by U.S. EPA into the California SIP in 1997, and later revisions were approved in 2007 and 2010;

Whereas, to meet requirements under the 70 ppb 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 will be brought to the Board for consideration in early 2023;

Whereas, CARB staff has concluded that the 70 ppb Plan, along with the CARB Staff Report, meets the requirements of the Act for the 70 ppb ozone standard for the Western Mojave Desert Severe nonattainment area;

Whereas, section 110(l) of the Act and Title 40, Code of Federal Regulations (CFR), section 51.102, require 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, as required by the Act, the 70 ppb Plan was made available for public review at least 30 days prior to the January 17, 2023 Antelope Valley AQMD public hearing and the January 23, 2023 Mojave Desert AQMD public hearing where each of the district Governing Boards approved the 70 ppb Plan;

Whereas, CARB staff prepared the CARB Staff Report, containing the proposed aggregate emission reduction commitment and the corrected MVEBs, and released it to the public on January 13, 2022, for a 30-day public review prior to the Board hearing;

Whereas, the California Environmental Quality Act (CEQA; Public Resources Code section 21000 et seq.) requires that no project which may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

Whereas, to meet its obligations under CEQA, the Mojave Desert AQMD and Antelope Valley AQMD determined that the *MDAQMD Federal 70 ppb Ozone Attainment Plan for the Western Mojave Desert Nonattainment Area* and the *AVAQMD Federal 70 ppb Ozone Attainment Plan for the Western Mojave Desert Nonattainment Area*, respectively, are exempt from CEQA under California Code of Regulations, title 14, section 15308 (actions taken by a regulatory agency for protection of the environment) and the 70 ppb Plan will not result in any potentially significant adverse effects on the environment;

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 of CEQA (CCR, title 14, section 15251(d)), and CARB conducts its CEQA review according to this certified program (CCR, 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 Section VII of the CARB Staff Report; and

Whereas the Board finds that:

1. The 70 ppb Plan, along with the corrected MVEBs included in Appendix A of the CARB Staff Report and the State commitment to achieve aggregate emissions reductions of 20.6 tpd of NO_x and 1.0 tpd of ROG in the Western Mojave Desert by 2032, including a subset to come specifically from on-road mobile source measures of 0.8 tpd NO_x and 0.2 tpd of ROG, as included in Section IV.A.ii of the CARB Staff Report, meets the requirements of the Act and the Ozone Rule for a Severe ozone nonattainment area;
2. The 70 ppb Plan, along with Section IV.A.ii and Appendix A of the CARB Staff Report, include the required emissions inventory, attainment demonstration including RACM, RFP demonstration and associated MVEBs, and contingency measures;
3. Ongoing implementation of CARB and Mojave Desert AQMD and Antelope Valley AQMD control programs, together with measures in the 2022 State SIP Strategy, provide the emission reductions needed to support attainment in the Western Mojave Desert of the 70 ppb ozone standard by the attainment deadline;
4. This proposal is consistent with CARB's environmental justice policies and does not disproportionately impact people of any race, culture, income, or national origin; and
5. 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 State commitment to achieve aggregate emissions reductions of 20.6 tpd of NO_x and 1.0 tpd of ROG in the Western Mojave Desert by 2032, including a subset specifically from on-road mobile source measures of 0.8 tpd NO_x and 0.2 tpd of ROG, from the 2022 State SIP Strategy as included in the CARB Staff Report.

Be it further resolved that the Board hereby adopts the 70 ppb Plan, including the emission inventories, attainment demonstration including the RACM demonstration, RFP demonstration, and contingency measures, as well as the corrected MVEBs as included in Appendix A to the CARB Staff Report, as a revision to the California SIP.

Be it further resolved that the Board hereby directs the Executive Officer to submit the 70 ppb Plan as adopted by the Mojave Desert AQMD and the Antelope Valley AQMD and the relevant portions of 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 hereby certifies that the 70 ppb Plan, the aggregate emission reduction commitment, and the corrected MVEBs, were adopted after notice and public hearing as required by Section 110(l) of the Act and 40 CFR section 51.102.

Be it further resolved that the Board directs the Executive Officer to work with the Mojave Desert AQMD, the Antelope Valley AQMD and U.S. EPA and take appropriate action to resolve any completeness or approvability issues that may arise regarding the SIP submission.

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.