

Proposed
State of California
Air Resources Board

Western Nevada County Ozone Attainment Plan for the 70 parts per billion 8-hour Ozone Standard

Resolution 23-8

March 23, 2023

Agenda Item No.: 23-3-1

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, CARB is authorized by Health and Safety Code section 39600 to perform such acts as may be necessary for the proper execution of its powers and duties;

Whereas, CARB has responsibility for ensuring that the districts meet their responsibilities under the Act pursuant to Health and Safety Code sections 39002, 39500, 39602, and 41650;

Whereas, Health and Safety Code section 40469, subdivision (a) requires CARB to determine the adequacy of the nonattainment area plan adopted by the district to meet the requirements of State law and the Act;

Whereas, Northern Sierra Air Quality Management District (District) is the local district responsible for control of air pollution from all sources, other than emissions from motor vehicles, in Nevada County under Health and Safety Code sections 40000, et seq., and section 60103 of title 17 of the California Code of Regulations (CCR);

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 Nevada County (western part) as a Moderate nonattainment area for the 70 ppb ozone standard with an attainment date of August 3, 2024;

Whereas, on April 30, 2021, CARB and the District requested U.S. EPA classify Nevada County (western part) as a Serious nonattainment area for the 70 ppb ozone standard;

Whereas, effective November 29, 2021, U.S. EPA classified Nevada County (western part) as a Serious nonattainment area for the 70 ppb ozone standards with an attainment date of August 3, 2027;

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 ozone standard;

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

Whereas, the District developed the Ozone Attainment Plan for Western Nevada County: State Implementation Plan for the 2015 70 ppb Ozone Standard (2023 Plan), to meet the Serious ozone nonattainment area planning requirements for the 70 ppb ozone standard;

Whereas, consistent with sections 181(a) and 182(c)(2) of the Act, the 2023 Plan includes an attainment demonstration that shows attainment as expeditiously as practicable by the Serious area deadline of August 3, 2027;

Whereas, consistent with section 172(c)(1) of the Act, the 2023 Plan demonstrates RACM;

Whereas, consistent with sections 172(c)(2) and 182(c)(2) of the Act, the 2023 Plan demonstrates that Nevada County (western part) meets RFP targets in all the required milestone years through the attainment year;

Whereas, consistent with section 176 of the Act, the 2023 Plan establishes MVEBs, developed in consultation between the District and the regional transportation agency, that conform to the attainment and RFP emission levels;

Whereas, in anticipation of forthcoming guidance from U.S. EPA, the 2023 Plan includes a contingency measure commitment 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, besides the SIP requirements addressed in the 2023 Plan, there are many other requirements under the 70 ppb 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, and RACT SIP as required by the Act and the Ozone Rule;

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

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

Whereas California's I/M program was first submitted and approved by U.S. EPA to include in 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 released the California Smog Check Performance Standard Modeling and Program Certification for the 70 Parts Per Billion (ppb) 8-Hour Ozone Standard on February 10, 2023 for Board consideration on March 23, 2023;

Whereas CARB staff has concluded that the 2023 Plan, meets the requirements of the Act for the 70 ppb ozone standard for Nevada County (western part);

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 prior to the adoption and submittal to U.S. EPA of any SIP revision;

Whereas, as required by the Act, the 2023 Plan was made available for public review at least 30 days prior to the February 27, 2023 public hearing where the District Governing Board approved the 2023 Plan.

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 the California

Environmental Quality Act (CEQA; 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 the California Environmental Quality Act (CEQA; Public Resources Code section 21080.5) 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 District determined that the 2023 Plan is exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) (the general rule that CEQA only applies to projects which have the potential for causing a significant effect on the environment) and under California Code of Regulations, title 14, section 15308 (actions taken by a regulatory agency to assure the maintenance, restoration, enhancement, or protection of the environment) and the 2023 Plan will not result in any potentially significant adverse effects on the environment; and

Whereas, CARB has determined that its subsequent approval of the District's plan is a "ministerial" approval for purposes of CEQA (Cal. Code Regs, title 14, §15268) because CARB's review is limited to determining if plan meets the requirements of the federal Clean Air Act, and CARB lacks authority to modify or not approve the plan in response to environmental concerns, as described in Chapter VII of the Staff Report.

Now, therefore, be it resolved that the Board hereby adopts the 2023 Plan, including the emission inventories, attainment demonstration including the RACM demonstration, RFP demonstration and corresponding MVEBs, and contingency measure, as a revision to the California SIP.

Be it further resolved that the Board hereby directs the Executive Officer to submit the 2023 Plan as adopted by the Northern Sierra Air Quality Management District 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 2023 Plan was 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 District 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.