

State of California
AIR RESOURCES BOARD

Resolution 04-29

October 28, 2004

Agenda Item No. 04-9-1

WHEREAS, the Legislature in Health and Safety Code section 39602 has designated the State Air Resources Board (ARB or Board) as the air pollution control agency for all purposes set forth in federal law;

WHEREAS, ARB is responsible for the preparation of the State Implementation Plan (SIP) for attaining and maintaining the national ambient air quality standards (NAAQS) 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, section 39602 of the Health and Safety Code also provides that the SIP shall include only those provisions necessary to meet the requirements of the Act;

WHEREAS, section 41650 of the Health and Safety Code requires ARB to approve the nonattainment plan approved 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, the ARB has primary responsibility for the control of air pollution from vehicular sources, including motor vehicle fuels, as specified in sections 39002, 39500, and part 5 (commencing with section 43000) of the Health and Safety Code, and for ensuring that the districts meet their responsibilities under the Act pursuant to sections 39002, 39500, 39602, 40469, and 41650 of the Health and Safety Code;

WHEREAS, the local air districts have primary responsibility for the control of air pollution from nonvehicular 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, sections 39515 and 39516 of the Health and Safety Code provide that any duty may be delegated to the Board's Executive Officer as the Board deems appropriate;

WHEREAS, the San Joaquin Valley Unified Air Pollution Control District (District) was established pursuant to sections 40150 and 40151 of the Health and Safety Code as the unified air pollution control district responsible for carrying out these responsibilities in the San Joaquin Valley Air Basin;

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

WHEREAS, the U.S. Environmental Protection Agency (U.S. EPA) initially classified the San Joaquin Valley Air Basin as a serious nonattainment area for the 1-hour ozone NAAQS with an attainment deadline of 1999;

WHEREAS, U.S. EPA published a final notice in the Federal Register on November 8, 2001, finding that the San Joaquin Valley Air Basin failed to attain the federal 1-hour ozone standard by the 1999 deadline, and reclassifying it as a severe ozone area with a new attainment deadline of 2005;

WHEREAS, with the reclassification, U.S. EPA required a rate-of-progress demonstration (ROP) for 2002 and 2005, an attainment demonstration for 2005, an emission fee rule applicable if the Valley fails to attain in 2005, revised New Source Review and Title V permit rules applicable to severe areas, and reasonably available control technology rules applicable to sources qualifying as major sources under severe classification thresholds;

WHEREAS, the District adopted and ARB submitted to U.S. EPA all of the above severe area rules and plans with the exception of a 2005 attainment demonstration;

WHEREAS, the District was unable to identify control measures with emission reductions sufficient for the Valley to attain the 1-hour ozone NAAQS by 2005, and on December 18, 2003, the District Board voted unanimously to request a reclassification to extreme with its associated 2010 attainment deadline;

WHEREAS, ARB staff transmitted the District's reclassification request to the U.S. EPA on January 9, 2004;

WHEREAS, on April 16, 2004, U.S. EPA published a final notice in the Federal Register reclassifying the San Joaquin Valley Air Basin as an extreme nonattainment area for the 1-hour ozone NAAQS;

WHEREAS, U.S. EPA set a deadline of November 15, 2004 for the submission of a plan demonstrating attainment of the 1-hour ozone standard by 2010 and ROP for 2008 and 2010 that includes contingency measures for progress and attainment and meets the requirement for the use of clean fuels for boilers as required under section 182(e)(3) of the Act;

WHEREAS, the District and ARB staff developed the 2004 Extreme Ozone Attainment Demonstration Plan to fulfill the planning requirements of both the federal Act and the California Clean Air Act;

WHEREAS, Chapter 8 of the 2004 Extreme Ozone Attainment Demonstration Plan specifically addresses the California Clean Air Act requirements for a Triennial Progress Report and Plan Revision, which the Board is not acting on at this time;

WHEREAS, the 2004 Extreme Ozone Attainment Demonstration Plan, excluding Chapter 8, comprises the 2004 SIP for Ozone in the San Joaquin Valley (2004 Ozone SIP);

WHEREAS, the 2004 Ozone SIP includes updated air quality and emissions data, a control strategy based on State, local, and federal measures, a modeled attainment demonstration, ROP milestones, conformity emission budgets, and contingency measures;

WHEREAS, the 2004 Ozone SIP control strategy relies on adopted State regulations, as well as previously adopted commitments for new statewide measures;

WHEREAS, on October 23, 2003 the Board approved the 2003 Final Statewide Strategy in Resolution 03-22, and directed ARB staff to submit to the Board and propose for adoption the 19 defined near-term statewide ARB control measures;

WHEREAS, the Board in Resolution 03-22 delegated authority to the Executive Officer to calculate and commit to new emission reductions from implementation of the Final Statewide Strategy that the Executive Officer determines to be necessary and appropriate for specific areas violating the NAAQS in California, as attainment SIPs are developed or revised in those areas;

WHEREAS, the air quality modeling for the San Joaquin Valley demonstrates a need for new emission reductions, beyond the benefits of adopted measures, to attain the federal 1-hour ozone standard by 2010;

WHEREAS, ARB staff calculated the appropriate emission reductions from the 2003 Final Statewide Strategy, provided these numbers to the District for publication as part of the 2004 Ozone SIP, and reflected these reductions in the ARB Staff Report on the 2004 Ozone SIP;

WHEREAS, section 182(e)(5) of the Act provides that SIPs for extreme ozone nonattainment areas may rely in part upon the development of new technologies or the improvement of existing technologies;

WHEREAS, the District states that adopted rules and practices satisfy section 182(e)(3) of the Act requiring that clean fuels be used in boilers;

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 notice and opportunity for public review, must be conducted prior to the adoption and submittal to the U.S. EPA of any SIP revision;

WHEREAS, the 2004 Extreme Ozone Attainment Demonstration Plan, including the components that constitute the 2004 Ozone SIP, was available for public review and comment for at least 30 days, and a noticed public hearing has been conducted in Fresno and videoconferenced to Bakersfield and Modesto prior to District consideration of the plan as required by the Act and U.S. EPA regulations;

WHEREAS, on October 8, 2004, the District adopted the 2004 Extreme Ozone Attainment Demonstration Plan, including the components that constitute the 2004 Ozone SIP;

WHEREAS, the District submitted the 2004 Extreme Ozone Attainment Demonstration Plan to ARB on October 22, 2004, along with proof of public notice publication and environmental documents in accordance with state and federal law, and requested that the elements required by federal law be submitted to U.S. EPA as a revision to the California SIP;

WHEREAS, the California Environmental Quality Act (CEQA) requires that a project which has significant adverse environmental impacts may not be approved by a lead agency as proposed if feasible mitigation measures are available and if those measures cannot mitigate such impacts to a less than significant level unless the lead agency makes a statement of overriding considerations;

WHEREAS, the District prepared an Environmental Impact Report (EIR) for the 2004 Ozone Attainment Demonstration Plan, circulated the EIR for public review and comment, and certified the EIR on October 8, 2004 pursuant to CEQA; and

WHEREAS, the Board finds that:

1. The 2004 Ozone SIP includes emission inventories for volatile organic compounds (VOC) and nitrogen oxides (NOx) in 1990, 2000, 2008, and 2010.
2. The 2004 Ozone SIP uses photochemical modeling based on initial results from the Central California Ozone Study to assess the VOC and NOx emission reductions needed to attain the federal 1-hour ozone standard by 2010.
3. The 2004 Ozone SIP provides for attainment as expeditiously as practicable by reducing combined VOC plus NOx emissions in the San Joaquin Valley by a total of 342 tons per day (tpd) between 2000 and 2010, based on adopted regulations and enforceable commitments to adopt and implement new measures.
4. Regulations already adopted by the State, the District, and U.S. EPA, together with enforceable State and District commitments to adopt and implement defined new measures, will achieve 97 percent of the total VOC and NOx emission reductions needed for attainment.
5. The 2004 Ozone SIP also relies on a District commitment to achieve the last 3 percent (or 10 tpd) of the needed reductions from unspecified long-term measures, as allowed by section 182(e)(5) of the Act, with the specific measures to be defined in 2007.
6. The District has committed to adopt and implement 27 defined new or tighter rules for sources under its authority to control, including six measures adopted since September 2002, to achieve about 30 tpd VOC and 28 tpd NOx emission reductions in the Valley in 2010.
7. The State's contribution includes 176 tpd of combined VOC and NOx reductions from adopted measures, a previously approved commitment for 10 tpd new NOx reductions as part of the Valley 2003 particulate matter SIP, and commitments for additional reductions of 15 tpd VOC and 10 tpd NOx from new defined State measures in the Valley in 2010.

8. The 2004 Ozone SIP demonstrates that adopted measures will reduce emissions sufficient to meet rate-of-progress milestones in 2008 and 2010.
9. The 2004 Ozone SIP identifies county-level VOC and NOx emission budgets for transportation conformity for 2008 and 2010.
10. The District has committed to utilize further modeling results of the Central California Ozone Study to reassess the attainment demonstration and to update the 2004 Ozone SIP by Spring 2007.
11. Based on the 2004 Ozone SIP and consideration of any significant issues raised in oral or written comments presented by interested persons and ARB staff, the 2004 Ozone SIP is consistent with the requirements of the Act.
12. The EIR prepared for the 2004 Ozone SIP meets the requirements of CEQA, and environmental documentation for individual measures identified in the plan will be prepared as necessary as each new measure is considered for adoption.

NOW, THEREFORE, BE IT RESOLVED, the Board hereby approves the 2004 Ozone Attainment Demonstration Plan, excluding Chapter 8, as a revision to the California SIP.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to submit the 2004 Ozone SIP, together with the appropriate supporting documentation, to the U.S. EPA for approval as a SIP revision, and to work with the U.S. EPA to resolve any issues regarding plan completeness and approvability that may arise.

BE IT FURTHER RESOLVED, that the Board authorizes the Executive Officer to include in the submittal any technical corrections, clarifications, or additions that the local agencies may subsequently provide to secure U.S. EPA approval, provided such changes do not reduce the effectiveness of the control strategy in the 2004 Ozone SIP adopted by the Board.

BE IT FURTHER RESOLVED, that the Board hereby certifies pursuant to 40 CFR section 51.102 that the 2004 Ozone SIP was adopted after notice and public hearing as required by 40 CFR section 51.102.

I hereby certify that the above is a true and correct copy of Resolution 04-29, as adopted by the Air Resources Board.

Lori Andreoni, Clerk of the Board